GOVERNMENT BILL

The Parliament (Prevention of Disqualification) Amendment Bill, 2006

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ) Sir, I move:

> "That the Parliament (Prevention of Disqualification) Amendment Bill, 2006 as passed by the Houses of Parliament and returned by the President under the proviso to article 111 of the Constitution, be taken into consideration".

Hon. Chairman and Members, The Parliament (Prevention of Disqualification) Amendment Bill, 2006 was considered and passed by this House on 17th May, 2006. (*Interruptions*) The Bill, as passed by both the Houses of Parliament, was sent to the hon. President for assent on 25th May, 2006. (*Interruptions*) The hon. President returned the Bill on 30th May, 2006 with a message to the Houses for reconsideration of the Bill under the proviso to article 111 of the Constitution.The message of the President was published in Rajya Sabha, Parliamentary Bulletin, Part II on May 31, 2006. (*Interruptions*)

SHRI DINESH TRIVEDI (West Bengal): Sir, why is this Bill important than the lives of so many people. (*Interruptions*)

MR. CHAIRMAN: Nothing else will go on record. (*Interruptions*)

SHRI DINESH TRIVEDI: Sir, since ...(*Interruptions*)...I am staging walk-out.

[At this stage the hon. Member left the Chamber]

SHRI H.R. BHARDWAJ: Sir, the President, in his message, directed that while reconsidering the Parliament (Prevention of Disqualification) Amendment Bill, 2006, as passed by both the Houses of Parliament, the following issues may be specifically addressed, namely:

"(a) Evolution of generic and comprehensive criteria which are just, fair and reasonable and can be applied across all States and Union Territories in a clear and transparent manner;

(b) The implications of including for exemption the names of office, the holding of which is alleged to disqualify a member and in relation

to which petitions for disqualification are already under process by the competent authority, and (c) soundness and propriety of law in making applicability of amendment retrospectively".

Sir, I may state here that the expression "holds any office of profit under the Government" occurring in article 102 of the Constitution has nowhere been defind precisely. Its scope has to be gathered from the pronouncements made, from time to time, by the Supreme Court and of the High Courts as to what constitutes the expressions "office", "profit" and "under the Government." The courts are of the view, I again repeat, the courts are of the view that a practical view, not pedantic baskets of tests, must guide the courts to arrive at an appropriate conclusion whether the concerned office is an "office of profit."

Sir, article 102(1) (a) of the Constitution provides that a person shall be disqualified for being chosen as, and for being, a Member of either House of Parliament, if he holds an office of profit under the Government of India or the Government of any State, I may here then say, other than office declared by Parliament by law not to disqualify its holder. So, it is the Parliament which has the power to exempt those Members of Parliament who are holding the office of profit.

The Constitution of India demarcates the legislative powers between the Union and States to deal with the disqualification of Members of Parliament and Members of the State Legislatures. The power of the State Legislatures, in respect of their members is contained in article 191 (1) (a) of the Constitution and, accordingly, State Legislatures have enacted the Prevention of Disqualification Acts for their respective States. Any attempt by Parliament to lay down generic criteria which will apply to the members of State Assemblies may be seen as an encroachment by the Parliament in the domain of State Legislatures.

Sir, the Parliament and State Legislatures have plenary powers of legislation within the fields assigned to them, and subject to certain constitutional and judicially recognised restrictions can legislate prospectively as well as retrospectively. There is a famous case from Rajasthan in which the Supreme Court gave its ruling. The Supreme Court in *Kanta Kathuria versus Manak Chand AIR* 1970 *SC* 694 held that article 191 of the Constitution itself recognises the power of the Legislature of the State to declare by law that the holder of an office shall not be

disqualified for being chosen as a Member and for being a member of the Legislature. There is nothing in the words of the article to indicate that this declaration cannot be made with retrospective effect. The word 'declared' in article 191 (1) (a) does not imply any limitation, Sir, I am laying emphasis on 'limitation on the powers of the legislature.' The declaration can be made effective as from an early date. This is the rationale of the law of 1970, Supreme Court.

The Government has, therefore, carefully and respectfully considered the message of the hon. President and it is of the view that the Bill should again be considered and passed by the Parliament.

Sir, I commend the Bill for the consideration of this august House.

The question was proposed.

MR. CHAIRMAN: Any Member desiring to speak may do so after which the Minister will reply. Shri Arun Jaitley.

SHRI ARUN JAITLEY (Gujarat): Mr. Chairman, Sir, I am deeply obliged to you for giving me this opportunity on behalf of my Party to oppose the Motion and the Bill moved by the hon. Law Minister. Sir, when I start to speak, I have two deep regrets. One is with regard to the substance of what we are discussing. We approved something earlier, which was unconstitutional. The highest constitutional office in the country advised us. We are now on the strength of majority in this House as also the other House choosing to ignore that. The second regret is with regard to the manner in which we are discussing this. Sir, there are many a challenging moments in democracy where hard decisions are to be taken. But this is one Bill where there is something more serious than what meets the eye. When this House had debated this Bill on the 17th of May, I had, at that stage, while opening the discussion for my Party, said that that moment was probably one of the all-time low for Indian Parliament, where Parliament instead of legislating in public interest was legislating in self-interest. But look at the manner in which we are now legislating. Our Budget Session got a shadow of this Bill, and our Budget Session ended before schedule because some persons holding offices of profit had to be protected; and, because Parliament was in Session, an ordinance could not be passed; and, therefore, this House lost valuable time in the Budget Session because the Budget Session was preponed

and adjourned ahead of schedule. Thereafter, a political controversy with regard to resignations, by-elections, etc. took place. We then--at least, we have the satisfaction, on this side, of having opposed this Bill. And, when we approved this Bill, we were reminded by the highest constitutional authority of this land that, probably, what you have done is not constitutional. We are now choosing to overrule him, and, while we are choosing to overrule him, we are not merely subverting the Constitution, there is, certainly, unrest on our side even on the manner in which we are doing it. We were discussing a Motion on the Mumbai blasts yesterday. Today, for some reason we decided to put that on the backburner, and, suddenly, took up this Bill. What is so sacrosanct about today, the 27th of July, that this Bill must be taken up in the Rajya Sabha today? Because 28th is Friday and it is not normally possible to do detailed legislative business; 29th and 30th will be Saturday and Sunday; somehow, this Bill must be approved today itself and that is the deadline, so that it can be approved by the Lok Sabha on the 31st. And what is the consequence of 31st? That the Election Commission has asked certain respondents including one of the State Governments, "please give your response in relation to certain offices". The substance of this Bill is that we are subverting the Constitution. The manner in which we are discussing it, we are subverting parliamentary procedures and giving a preference to self-interest of parliamentarians rather than the issue of terrorism which we have chosen to put on the backburner, so that on the 31st some of our colleagues in this House as also the other House can be saved. When I said that, when we took it up on the 17th of May, it was an all-time low. Today, Sir, we are compounding the matter further, that somehow all other issues in the country including the discussion on terrorism can wait but the right of parliamentarians to profit from offices conferred on them by the executives must be given priority. This, certainly, will not be a glorious moment for this House. Sir, at least, my Party has the satisfaction of having opposed this Bill from its very inception. I remember in the earlier round in May when I had given several reasons to oppose this Bill, I was taunted by the other side that my arguments were laughable. I don't have the satisfaction today of the last laugh in view of what has happened in the last few months. But we all have this concern that what kind of an august body are we. We committed a constitutional blunder; we committed a constitutional monstrosity by bringing a legislation in the face of Article 102. We tried to exempt not offices, but our concern was

to the holder of the offices who had to be protected. We were reminded by the highest constitutional authority that this requires reconsideration. Sir, never has this country seen such a disconnect between what the parliamentary majority is deciding and the will of the people. Sir, a few days ago, I saw on television a television poll saying -- and television polls let me concede are not representative enough -- can President overrule Parliament? The question was framed in a manner where the answer should have been obvious 'no'. But where are we taking our own credibility by legislations of this kind? Ninety-one per cent of the people on the television said 'yes; he should in a Bill of this kind'. That is the disconnect we are bringing between public opinion and what this House is deciding, and let us be very clear that there are not many occasions that we, in parliamentary history, get to correct the wrongs which we have committed. We repent over those wrongs; our future generations regret those wrongs. But this is a historic occasion where opportunity has revisited us, an opportunity has revisited us to tell us that public opinion is against you, media opinion is against you, the opinion of the highest constitutional authority is against you and all constitutional advice is against you. Please reconsider what you have done. I can understand, Sir, for want of understanding of constitutional niceties, we may decide and commit a mistake once. I can understand, Sir, that vested interests, at times, to save a Government in power or a coalition, may compel us to commit a mistake, but as for those who refuse to correct mistakes on being repeatedly told what are the mistakes you have committed -- at times, we wonder why is this being done -- is it merely because of the arrogance of power that this is being done? We are in power, we have the numbers, and because we have the numbers, we are in a position to decide anything, or, is it being done because we refuse to see reason or rationality or logic or lack the humility to give respect to another viewpoint, even if the viewpoint comes from the President of India?

Sir, we committed a constitutional misadventure. A sane advice has come to us from the President of India, and to respond to that advice, it is the arrogance of parliamentary majority which tells us, how can he decide? Is he a rival centre of power? Well, the President of India performs his constitutional duty. But, then, let me assure you, Sir, Indian democracy is not so fragile. The Indian democracy has many a sefeguards, and amongst those many safeguards that Indian democracy has, the public opinion may be one, the right to vote out a Government may be another.

Those who all cheer you when you walk to power are the ones who will be looking at you when you walk down from power, and only history will decide whether you have the last laugh or those people who are watching you have the last laugh. And, the Government today is so intoxicated with that arrogance that it is not thinking in terms of what those people who will watch them when they walk down from power are going to think. Parliamentary majorities are not immortal. The right to remain in power is not immortal. It gets shaken. With the kind of public opinion, media opinion and constitutional opinion that has been witnessed, I have not the least doubt that the time is not far away when this law will also be subjected to strict judicial scrutiny. And, if it is held to be violating many a constitutional provision, it may become very difficult to sustain such a law.

Sir,I recollect, in the last Session, we had supported the Government on the amendments to the Municipal Law. Even at that time, we had cautioned them that there is a presumption of a validity of law, but don't enact laws, which are so fragile that they fail in scrutiny sooner than later. Don't be under this arrogance that we are the sovereign and, therefore, we have all the powers. There are Parliaments in the world, which have complete parliamentary sovereignty, and they can decide anything. But, the sovereignty of Indian Parliament is conditioned in matters of legislation on two grounds. The first is, the Indian Parliament does not have absolute sovereignty. The Indian Parliament's sovereignty is subject to the legislative competence of the Parliament. It can legislate only in matters where it is competent to legislate; it is not the sovereign in matters that fall within the purview of the State Legislatures.

The second restraint that we have is, we cannot legislate on a subject that violates constitutional provisions. Our right to legislate, is, therefore, conditioned by that limitation. That is why, all our legislations have to stand, at times, the test of judicial scrutiny. That is how our democracy is made. Why did we oppose earlier and why do we now oppose this Bill?

Let us look at this Bill. The very basis of Article 102 has been that our Constitution is made on the premise of separation of powers. The Executive performs its functions, the Legislature performs its functions and the Judiciary performs its own functions. All the three wings function

independently. The Executive is accountable to the Legislature and, when the Executive is accountable to the Legislature, to maintain the independence and dignity of the Legislature, Article 102 was brought into the Constitution. The Executive cannot confer benefits on you. If you are profiteering from the Executive, if you are beholden to the Executive, you lose your independence in the matter of the Executive being accountable to you. And, therefore, the Constitution has very clearly said that whoever occupies an office of profit, gets disqualified the moment he holds such an office. The holding of such an office was itself a disqualification.

We are now creating a large number of offices, as far as the Union is concerned, where you continue to hold those offices. Whatever we do now here will be replicated by all the States. So, you will have hundreds and hundreds—it could also be thousands—of offices all over the country, which would be in the category of exempted offices, and the effect of those exempted offices will be that the legislative bodies, and their independence, will be controlled by the Executive. This is because there will be thousands of legislators all over the country by such amendments, retrospective or prospective, who would be given benefits and offices by the Executive, and, therefore, their independence and dignity to question the Executive when it is accountable to them itself goes down.

This Bill, in its spirit, and in letter, goes against what is said in Article 102, but what are particularly disturbing are two facts. While deciding on this Bill, we decide to give benefits to certain offices—the exemption benefits. And, when we choose these offices, what are the criteria. What was the intention of the framers of the Constitution? The intention of the framers of the Constitution was that a particular office may be an office of profit, but the office may require, by its very character, that a Member of the Legislative body should occupy that office. Then such an office would be considered as an exempted office. So, the exempted office and its character must have some nexus to the functions the individual has to perform. Therefore, conventionally, the offices we put in two places were Ministers, State Ministers, Deputy Ministers because they necessarily have to be MPs and MLAs. Then came a situation where benefits were being conferred on the Leader of the Opposition, on Chief Whips of parties, on Deputy Whips of parties. So we included them to say, let leaders of opposition, chief whips, etc., and

all MPs and MLAs should be conferred benefits. I can understand that outside the legislature there could be some extraordinary offices wherein individual's experience as an MP or an MLA may be of great use. If such an office comes up, the Constitution envisages in Article 102 that such office could be put in the exempted category and this, Sir, is the principle ground on which my party and I believe, and most of all on this side believe, that this law is completely vulnerable. How did you decide the exemption? You did not decide the exemption on this basis that these are offices where MPs are necessarily required, so exempt them. The requirement of the office is such that an MP's experience will be of great utility. You decided this criteria on the basis that a large number of our colleagues, at present, are in violation of Artilcle 102; they stand to lose their membership and, therefore, let us amend the law and let up protect these defaulters as of today. So, the nexus of this list of exempted offices is not to the requirement of the office, it is to the holder of the office for whom a privilege is being created. I want to save the present holder of the office because the stability of my Government depends on his support and, therefore, depending on who the holder of these offices, I will exempt him. Was this the object Article 102 that exemption will have nexus to the holder of the office and not to the requirement of the office? If on such colourable exercise of power we start legislating and then we say that I am sovereign, who is the President to tell us rethink, why should courts interfere in all these matters, then, certainly if we choose to violete the Constitution, somebody has to just knock at the door and remind us that, yes, Parliament is sovereign and supreme in functions which it has authority, but over and above the Parliament, besides the people of India, there is the Constitution of India and, therefore, the mandate of this Parliament may include amendment of the Constitution except its basic structure. The mandate of this Parliament does not include violation of that Constitution and, therefore, if the Parliament chooses to violate the Constitution by creating first whole exemption, then, creating the list of exempted offices whose nexus is not to the requirements of the office but the nexus is to the holder of the office, then certainly, Mr. Chairman, this law is something which should shake the conscience of every Indian and that is why in poll-after-poll overwhelming majority people say that Parliament's rights on this should be constrained. This is an extraneous debate. We do not accept that debate. But it is an extraneous debate, which has started. And then what do we do? We not only make sure we

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exempt these offices, we give everybody wholesale exemption since 1959. Now, offices are created in the year 2004, in 1993, but the exemption is with effect from 1959. That is the drafting of this Bill. So, the President rightly says, "How are you exempting offices prior to the date of birth of that office?" Why are you doing that? And we say, sorry we are in majority, so we are entitled to do that; we will just reconsider and say that we want this Bill back. This, Sir, is the dilemma that we face today. Let us pick up each of these 55 offices sought to be exempted by this Bill. Next to the name of each office, you can write the name of the individual who is sought to be exempted. If it is simply put, as my colleague Sushmaji said the other day, "यह पद नहीं छोड़ा जा रहा है। हर पद के पीछे एक चेहरा है, उस चेहरे को बचाया जा रहा है।" That is the essence in this Bill. And, they are wanting to create an exemption of this kind by exonerating people who have violated the law. Now, let us see the dichotomous situation which comes up. There are offices which exist. Let me give an example Development Authority. Now, every city, every district, every township has a Development Authority. You have the Delhi Development Authority. You may have the Kanpur Development Authority, Jaipur Development Authority. So, if Development Authorities require MPs as Chairman, then all the Development Authorities should be exempted, but we don't exempt all. We only exempt those Development Authorities where MPs as of today are Chairpersons. We only exempt those offices. Why should the Jaipur and the Ahmedabad and the Mumbai Development Authority not being exempted? why should only Haldia and Santiniketan be exempted? For the simple reason, the current violators are the ones who are sought to be exempted, and by exempting current violators, the Government decides to use its majority to prolong its own longevity so that its own supporters don't get disqualified under article 102. To prolong its own longevity, it decides to exempt those people. But, then, another dichotomy comes in. There are offices created which if you occupy, you are exempted from disqualification from the Union Parliament. But, for the same offices, you are not protected if you are a Member of a Legislative Assembly, Now, let us see, Indian Institute of Psychometry, All India Council of Sports. Now, these are the offices which the Parliament has treated as exempted offices, but the Andhra Pradesh Legislature has not treated them as exempted offices. So, if you occupy these offices, and if you are an MLA in Andhra Pradesh

Assembly, you will get disqualified. But, if you are a Member of Parliamemt, you don't get disqualified. So, the President then rightly says. "Are we having some uniformity in this matter or not?" Or is it an arbitrary pick and choose that only my current supporters are to be exempted and, therefore, I will abuse the legislative power and using my majority, have a legislation of this kind. Sir, It is on this reason that we decided to oppose this Bill. What does the President now remind us of? The Parliamentary Bulletin indicates some of the reasons why the President has returned the Bill, and I presume that the reasons, which are to be specifically addressed, are the ones that the President has reminded us of. The first reason, he says is, "Why should there not be a comprehensive criterion for the whole country?" Now, I can quite understand a comprehensive criterion. I read my friend Shri Sitaram Yechury's article in today's newspaper. Bhardwajji just now said the same thing. Office of Profit has not been defined. Who prevented you from bringing a legislation defining the office of Profit? Office of Profit was not defined by the Legislature, but Office of Profit has been interpreted in dozens of judgements by the Supreme Court. Today, there is no ambiguity on as to what the definition is. But, if some of us are confused, let us not just give irrelevant and irrational reasons. Then, your Bill should have said, "My Bill merely is for the Centre". In Article 102, we give a uniform definition of the Office of Profit. You could have addressed the concern of the President by saying that there are a reasonable rational criteria all across the country where article 102 and article 191 give the same definition for the Centre and the States for an Office of Profit. Now, don't tell us in your opening comments that there is a need to define it. Mr. Yechury has very forcefully argued in today's article that because there is no definition, there is need for defining it. But, your Bill does not define it. The Bill is only an arbitrary selection of posts depending on 'my list of supporters today so that I can exempt them.' The second reason is, and this, Sir, besides being questionable and colourable, is morally improper. What is morally improper can never be legislatively proper. There are persons against whom petitions are pending, persons who have already violated the Constitution and what does Article 102 say, you stand disqualified when you hold an office of profit. The disqualification of these Members took place on the day when they held office, the first day when they entered this office. The disqualification has already occurred. If anyone of them disputes it, it is only then, as per article 103, the Election Commission will make a formal

declaration and the President will act accordingly.

So, the second objection of the President it that the disqualifications have already occurred. These offices should stand vacated. Petitions are pending under article 103 for declaring them as vacant. You now step in and say, I will retrospectively exonerate them by retrospectively changing the law. For retrospective legislation, you use Kanta Kathuria's case to justify. I think a time will come where even that will have to be re-examined and revisited. But retrospective changes do not correct the moral wrongs. When you corrected the law retrospectively in 1975, the Election Law, you scored a technical win but you suffered a great moral defeat. Because you had to resort to that kind of an amendment by a retrospective legislation in 1975 to score a technical victory in validating an invalid election, you are now trying to validate those who have ordinarily vacated office, who stand disqualified; and, because they happen to be current Members, and as a good fraternity, we must support each other, and so we will help each other in retaining their memberships.

The third objection of the President is almost to the same effect; how do you have 1959 retrospectivity. The States are using different criteria; and Centre is using different criteria. Where are we moving towards, Sir? Sir, it is an easy trap to fall in and I can see this Government falling into this easy trap. Even independent of the President guiding the Government to come on track, we had a series of consultations with the Government. We told them that we are not going after somebody's blood. We don't want to destabilise the polity. If a wrong practice has come in and the wroing practice is to be undone, we advised the Government that there are several ways of doing it. Even if you want to condone the past, do you have the moral stature to say that this kind of practice for the future should stop? Consult political parties and do it.

Now, this is something over which, without destabilising the polity, we would have stood high up in public esteem. The Government would have stood high with pride saying that this was a bad practice. There was a bad practice continuing that in a House of 70, you could have 65 Ministers. This House and the Lok Sabha unanimously amended the Constitution and set 15 per cent limit. Anti-defection Law was passed. We then amended if further to do away with the split. These were all Constitutional reforms that various Governments have done and each

Constitutional reform has served the polity well, and, this was an occasion to say that this kind of practice is going on in the past, we want to stop this practice and we want to correct for the future. We suggested to the Government, come out with some such proposal don't be under the presumption that we want to destabilise the Government and we want 50 of them to go—we will speak to you, you will find a solution. We made positive suggestions. Sir, but I got an uneasy impression. What I have mentioned earlier, the arrogance of numbers adds to the arrogance of power and these two arrogances taken together itself were so intoxicating that those in power refused to see reasons. And, when you refuse to see reason, I can tell you what the consequences will be. The consequences will be,one I have said, public opinion is against you; you are committing a moral wrong. When the highest Constitutional authority is advising you to correct, the highest Constitutional authority is not a usurper. He is the highest Constitutional authority. And, Sir, my party believes, and I am willing for an open debate on this. I am sure, since it is a grey area, there could be different opinions, as far as this is concerned. What will happen now? Let us just see what the role of the President under our Constitution is. Under Article 79, the phrase 'Parliament' is defined not just as the two Houses of Parliament. Article 79 says. "There shall be a Parliament for the Union which shall consist of the President and the two Houses known respectively as the Council of States and the House of People." The President is an integral part of the Parliament. The Constitution so defines it. When we send a Bill to the President for assent, there are several functions the President performs, and while performing each one of them, the President has to keep utmost in his mind the oath of affirmation of office that he takes under Article 60. Let me read that oath of affirmation, "I solemnly affirm/swear in the name of God that I will faithfully execute the office of President of India and to the best of my ability preserve, protect and defend the Constitution and the law and that I will devote myself to the service and well-being of the people of India". The President is, to the best of his abilities, duty-bound to preserve, protect and defend the Constitution. He has taken an oath. There are functions which the President under Article 74 performs. He is bound by the aid and advice of the Council of Ministers. There are functions where he has to apply his own independent mind. Whom to invite to form the Government is a function where he is not bound by the aid and advice. Whether the Prime Minister in office has lost majority or not is an independent function.

Whether nobody has majority and I should dissolve the House is his Constitutional function. And, when we send a Bill for affirmation to the President under Article 111, the Supreme Court says specifically, the President is not performing an executive function; the President performs a legislative function. In that legislative function that the President performs under Article 111, he has to make up his mind whether he must give assent or whether he must refer it back. While deciding whether to give assent or refer it back, the President does not go by aid and advice. If he is to decide to give assent, he gives assent. He is entitled to consult various people. He can consult Government; he can consult Parliamentarians; he can consult leaders; he can consult Constitutional authorities, and for that legislative function, he can even undertake a Constitutional consultation under Article 143. That is the job of the President. Then he can tender advice and say that this is what I feel. But now, the Parliament says we refer it back. If it refers it back, the President will have to consider what to do, because at the end of the day, the President will be bound to devote himself to any extent to preserve the Constitution. He cannot second time withhold consent. But, while in the process of deciding to give consent, he would still be entitled to take all efforts to make the Prime Minister, to make the Government, see reason to get the best Constitutional advice from various authorities, including the Constitutionally-provided advice and tell the Government that this is what it is. And finally, if the Government says sorry, we overrule everybody and every interpretation of the law, the President will have to perfoms his duty under Article 111 of not withholding assent. But, before he gives his ultimate assent, he should leave no stone unturned to protect the Constitution of India. That is the job of the President under article 111, and that is when the President is true to his oath under article 60, Sir, if the Government still chooses to say that it wants to go ahead, then, Sir, as I said earlier, not only will it be an all-time low for this Parliament, but it will be an all-time low for Indian democracy and for the Government also. Sir, we all understand — none of us in this House was born yesterday that we cannot understand what is going on behind — the significance of why the debate on the Bombay bomb blast has been deferred and the Office of Profit Bill has come today. There is something significant about Monday — Monday is the 31st. The Election Commission wants replies by the 31st. My friends in the Left parties are not willing to give those replies. So, the Government is not willing to give those replies by

the 31st. Therefore, not only is the Constitution to be subverted but also the parliamentary agenda is to be subverted. It is not a great day for Parliament, Sir. Let me remind my friends in the Left Parties that it is not merely a dispute of definition, because this law does not give any definition. If the Government merely wanted definition, as Mr. yechury has ver forcefully arged today, we would sit with them and work out a definition common to articles 102 and 191. But the object is to protect the present defaulters. Sir, every time I hear my friends in the Left Parties, I get one good feeling that I may be disagreeing with them, but from their ideological point of view, at least, they try and put forward what they want to say. They forcefully argue; they preach; and they pontificate. But then we expect them to be held by the standards which they have professed. They always want to hold the moral high ground. But because 17 or 18 MPs are to be protected, Constitution should be subverted, and parliamentary agenda should be subverted. For what? so that my MPs can have Offices of Profit.

Sir, I am sure my friends, Mr. Yechury and his colleagues, are better scholars of marxism than I am, but the little that I know was that the hallmark of all exploitation was profit and the desire for profit. This is what Marx said probably told the world.

Today, Sir, it is a matter of regret that the pre-condition for support is: 'protect my Office of Profit.' This is the opportunistic position the Left Parties have reduced themselves to. Sir, this is the sum and substance of this legislation.

In this live democracy, you could see, even when we participated in this debate, some of our colleagues were uneasy. Why are we saying postpone the Bombay bomb blast debate and why are we agreeing to your ruling? We should protect. So, we agreed to participate despite our protest in the matter. Because we did not want to give up this opportunity. The President has asked the House to reconsider it. We agreed, so that we should not be accused of having ducked the debate. Constitutionally, ethically, politically, and morally, the Opposition, Sir, is right; the Government is in the wrong. I have no doubt that the arrogance of this Government will compel it to approve of this Bill. The fragility of this Government, which is dependent on the support of the Left parties and these 55 holders of Office of Profit, will compel it to support this Bill. But I have not the least doubt, Sir, that we have great faith in Indian democracy.

when rulers decide to approve fo such legislations, people know how to deal with such rulers. We will, at least, have the satisfaction of having gone back as dissenters. We will hold our heads high enough. But I can assure those in the Government that the last laugh on this has still not been seen. I have no doubt that this Bill, even after its passage, will have great difficulty in becoming a law. And if it becomes a law, it will face a near-impossibility in sustaining itself as a law. With these words, Sir, I oppose this Bill on behalf of my party.

DR. ABHISHEK MANU SINGHVI (Rajasthan): Mr. Chairman, Sir, I am grateful for this opportunity to respond. I have heard my friend in rapt attention and despite the several fallacies of his arguments, each of his points require very specific response. 'Office of Profit' has acquired an acronym OoP, which is perhaps reflective of the chaos and confusion. If you pronounce that acronym OoP, the chaos and confusion is inherent in that acronym itself. But my friends on the opposite side are obviously trying to contribute more and more to that chaos and confusion. From a discussion on a Bill on the Office of Profit, they have repeatedly tried to convert it to a discussion on a Bill of perplexity and pandemonium. But, may I deal with the issues on three fronts? My friend challenged the manner in which this House is proposing to deal with the subject and to pass or not pass the Bill. And he, then, dealt with the merits of the matter. So, may I firstly start with the manner of passing of this Bill?

My friend referred to it being a bad day for Parliament. I ask him and his supporter: Is it very glorious for you to have participated, through no less than the Leader of the Opposition, in meetings which pre-decided that the Office of Profit Bill will be taken up sometime today and then, to renege on a commitment which your party's senior representative had made alongwith others? Is it fair and glorious for you to draw the equation in 'either-or' format — either terrorism or office of profit where there is no mutual exclusivity between the two? There is no question of both not being important; there is no question of this House not discussing both. You heard the Minister a short while ago saying that we shall sit as late as we like to discuss terror which, of course, as you know well has been discussed yesterday in some detail. Therefore, where is the question of 'either-or'? Where is the question of a choice? As parliamentarians, as common sensical citizens and as lawyers, we know that there is nothng sacrosanct about the 31st. If the Election Commission has given time five, seven or

ten times earlier, it is entitled, in its own discretion, to give time. And, I don't think they are going to consult you before they give or do not give time. So, why do you interpose this hypothetical situation, create a red-herring that this House wants to discuss this now to prevent something happening on 31st or to have something happening on 31st. *(Interruptions)*

SHRI C. RAMACHANDRAIAH: (Andhra Pradesh): That is the opinion of the nation. That has been reflected. *(Interruptions)*

SHRI N. JOTHI (Tamil Nadu): Then, why are you piloting this Bill? *(Interruptions)*

DR. ABHISHEK MANU SINGHVI: Sir, I am sure if you have had the patience to hear your party Member, you will have the courage to listen to a different viewpoint. I am sure that you subscribe to Voltaire's view as parliamentarians that you disagree with me vehemently, but, will support my right to speak, and to speak in patience, without interruptions, if I may respectfully say so. Just as a few moments ago, we did when the hon. Member from your party was speaking.

[MR. DEPUTY CHAIRMAN in the Chair]

You talk of the manner of passing this Bill. Is it very glorious for you not to follow and not to support a repeated ruling of the Chair? That perhaps is your idea of parliamentary democracy—not to follow the ruling of the Chair.

To obstruct the house or walk out of the House on other issues when both, terror and the Office of Profit Bill are liable to be discussed today, and shall be discussed today...*(Interruptions)*

श्री रविशंकर प्रसाद (बिहार): क्या बोल रहे हैं आप? सब्जेक्ट के ऊपर बोलिए।

श्री सुरेश भारद्वाज (हिमाचल प्रदेश): सब्जेक्ट के ऊपर बोलिए।...(व्यवधान)...

श्री उपसभापति: बोलने दीजिए न उन्हें। ...(व्यवधान)... प्लीज, उन्हें बोलने दीजिए। ...(व्यवधान)...

डा॰ अभिषेक मनु सिंघवी: मैं बोल रहा हूं।...(व्यवधान)... उसी मुद्दे पर बोल रहा हूं जिस मुद्दे पर आपकी तरफ से माननीय मेंबर ने अभी बोला था। मैं एक भी मुद्दा बाहर से नहीं ले रहा। ...(व्यवधान)...

So, therefore, don't try to mislead the people of the country about the manner. The manner is the only democratic manner of passing it. On the

contrary, if I may say so, you are responsible for obstructing the House, for delaying proceedings, for taking the valuable time of Parliament and painting a picture of 'either or' situation when none exists.

Coming now to the second issue which has been involved, and that is, the issue of Parliamentary passage of a Bill, Presidential assent or no assent, and the entire procedure of Article 111 of the Constitution. My friend to whom I listened with rapt attention, unfortunately, is guilty of fallacy upon fallacy, and let me list a few of the fallacies, and then, deal with them, one by one. His first fallacy is, implicitly right through his address, that Parliament does something wrong, if it even dares to discuss a matter, and then to pass a Bill, which has been returned to Parliament by the President; that is the implicit theme of his address, and that in doing so, Parliament is doing something unconstitutional, Parliament is doing something wrong, Parliament is doing something erroneous...(*Interruptions*)... that is implicit in what you said.

SHRI ARUN JAITLEY: Don't answer an argument which I have not addressed.

DR. ABHISHEK MANU SINGHVI: That is implicit in what you said because, you are painting a picture of Parliament versus the President, which equation is precisely not there. It is the same equation, which you painted, when you said a moment ago, either office of profit or terrorism. ...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Mr. Jaitley, please don't intervene.

DR. ABHISHEK MANU SINGHVI: Can I remind my learned friend that it is the equation of 'either or' which you are trying to paint in every situation? The third fallacy is, the party in Opposition, will say that the Bill is unconstitutional, and that will make it unconstitutional. By definition, an unconstitutional Bill should not be passed by Parliament. But, why is it unconstitutional? It is because you say so. As Alice in Wonderland said, "Something is wrong because, I, Alice in Wonderland say so." But, what is unconstitutional about it? Let me remind the hon. Member and his Party that, unfortunately, for you, and perhaps, for us, the entity which decides constitutionality, is yet to come into the picture, and it comes into the picture not when a document is a Bill, but, when it becomes an Act, and that entity is the Supreme Court of India. So, let us wait for the Supreme Court of India to pronounce it unconstitutional or to validate it.

Let us not give an advance certification in a self-serving manner, and then say, it is unconstitutional, and we should not pass it. If this is so, then, you would be deciding it. But, unfortunately, for you, the interpretation of the Constitution is entrusted to the Supreme Court.

The next fallace is that there are limitations on Parliamentary power, and as far as two limitations are concerned, I entirely agree with you. But, unfortunately, you have smuggled the third limitation. The first limitation is, the legislative competence, which is not an issue today, we are not transgressing or encoraching on any State power. The second limitation is that ultimately what Parliament passes, will be held or not held to be constitutional by the Courts. So, there is a limitation of *ex post facto* judicial review. But, let me remind the hon. Member and the Party he represents that there is no third limitation on Parliamentary power. Article 111 of the Constitution is certainly not that limitation. Presidential reference back is certainly not a third limitation. Article 79 is certainly not a third limitation. Indeed, my friend's argument suggests a complete vote of no confidence in the House and the Parliament to which he belongs. It suggests a vote of no confidence in the very institution of Parliament. But, let me remind you that merely because, for whatever reasons, you happen to be one of the few parties in this House which have decided to oppose this Bill, let not heard politics make bad conventions, bad precedents, bad law. You are dragging the President and the office of President into a political arena. In the last few days and weeks, I have heard with astonishment arguments that the President should refer this Bill for advisory jurisdiction to the Supreme Court. I have heard, with astonishment, arguments that the President can or should override the Parliament. It was a topic of debate on television. I have heard issues as to whether the President can delay such matters. Why are these issues being raised? These issues are being raised because you have deliberately misled the nation and this House on the meaning and scope of Article 111 with which I wish to start.

Now, it is interesting to note that if you had done your Constitutional homework, you would have emphasised the last five words of this Article. And the last five words of this Article are so unusual as not to be found, virtually, in any provision of the Constitution, and virtually, in any other Constitution of the world. Those words, if I may remind you,—I am sure you have not forgotten it, but your group overlooked them in your

addresses—are: "The President shall not withhold assent." Surely, we, you, the House, the President, the nation, are all bound by the words of this small book, which we call, the Constitution of India. And let me remind you of another part of your constitutional homework that these very five words were missing in the draft Article which came for approval before the Constituent Assembly. The Constituent Assembly, prior to Article 111, had before it Article 76. And if you read the books on this, you will find that Article 76, in its original form, did not have these crucial words. A debate arose, an issue was raised, and it was said that, ultimately, in this country, for right or wrong, for good or bad, we have adopted a constitutional system of parliamentary democracy under which, barring two or three exceptional situations, the President of India follows the system of a constitutional entity and does not rule but reigns. He follows, by 400 years' precedents, broadly, the contours of the status of the Queen of England. And, therefore, the Article did not have these words. These words, after discussion, were inserted. What does that mean? For you it means that you are guilty, just now, of advocating a deliberate violation by this House of the intent of the framers. You want to violate the spirit and the letter of intent of those who framed this Constitution.

Coming to the third aspect of Article 111, Article 111 represents the Constitutional disletics of give and take. In the Marxian terms, it represents the thesis, the anti-thesis and the synthesis. That is a Marxian dialectic. But there is a dialectic in this constitutional process also. The constitution envisages, knows, and accepts, all along, that there may be situations where the Parliament and the President may differ, it does not mean that either is wrong; it does not mean that either is right. It only means that each is a high constitutional functionary and is entitled to the highest respect, the highest reverence and the highest consideration. But, ultimately, for those who decide, the framers could not have left it as two disagreeing institutions. So, having anticipated the potential disagreement between these two institutions, the framers created this mechanism and added a proviso to Article 111, and, indeed, the proviso did not have these words. But these words were added, precisely, to envisage the situation which you call immoral and wrong. And you suggest that the President, having spoken on it, this House. cannot or should not debate it. The fact that I am debating this or the fact that you are considering it is not the slightest disrespect to the highest holder of the Executive office in this country. On the contrary, each and every concern of the President

of India has been and must be taken into account. But will that attenuate or circumscribe the sovereign power of this Parliament, which has been entrusted to this body by the Constitution itself? Because if you say so, then you express a vote of no confidence in Parliament; you express a vote of no confidence in the Constitution; you express a vote of no confidence in those who framed the Constitution and expressed this intent so clearly, so categorically. But let me continue into how you have dragged the President into this political arena; very wrongly. You are aware that the President has a right to send it back for reconsideration. You are equally aware that we have a right to consider and, then decide as per the wisdom of this House.

The President chose to send it back. Let me say here that I totally disagree with your picture that the President in sending it back has written down that the Bill is unconstitutional. That is completely misleading again. Please see the President's referral back. There is no question of assuming that the President thinks or says that he thinks that it is unconstitutional. I will come to that in a moment. *(Interruptions)*...

SHRI N. JOTHI: He is gentleman. *(Interruptions)*... He said it politely. *(Interruptions)*... He is a gentleman. *(Interruptions)*...

DR. ABHISHEK MANU SINGHVI: I am glad that my friend is using such good words. If you believe in those good words, you should not drag the President into the political arena. You should not have dragged the President into the political arena. *(Interruptions)*...

SHRI N. JOTHI: He used only gentle words. *(Interruptions)*... You have to understand it. *(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Jothi, please.

DR. ABHISHEK MANU SINGHVI: The President sends it back on a referral. The referral is to reconsider it by the Parliament under this article of the Constitution. While the matter is pending in the Parliament, while the Parliament is seized of the matter, while the President quite rightly, in terms of the Constitution, has left it for the time being to the Parliament, you chose to go to public and you chose to go to the President to suggest various alternatives to the President. Is this glorious? Is this correct? Is this a following of the Parliamentary procedure? Is this an adherence to high standards of public life or the Constitutional spirit? You could have waited for the Parliament to debate it. You tried to pre-empt.

I hear with equal astonishment, utter amazement, your suggestion that the President can and should refer it to the Supreme Court. For this argument, you pressed into service the office of oath. There lies another fallacy. But that fallacy has very grave implications. That fallacy is your premise that the President is entitled under the Indian Constitution to be a judge of potential legislation by referring to his oath. Now, forget this case for a moment because we tend to become exacerbated and excited about the facts of a particular case. But please appreciate the implications of what you have said. If this is correct, then every proposal, every Bill from Parliament can be judged by the President by reference to his oath. The President will decide by reference to his oath, according to you, not according to the President, that a Bill unconstitutional, violative of Part III or it shockingly violates his oath and, therefore, having so decided, will not give assent. The Supreme Court is, of course, to become irrelevant. But more than that, there is absolutely no power under the Constitution and the President rightly recognises it and all our Presidents have rightly recognised it till now; but you don't recognise that the President has no power under the Constitution to refer and decide matters by reference to a third entity known as ther "oath". This will convert our Parliamentary democracy, our Constitutional ethos and the spirit of our Constitution into a totally different field. It may be converted into a Presidential system, partly of the US kind, or it will make it a hybrid which belongs to no species or no category. But it will certainly do violence to the very basis on which our Constitutional structure is premised. So, your reference that the President should consider referring it to the Supreme Court is a deliberate mischief.

You are also eually aware of the fact that this question of what the President can and can't do arose in several situations. Ultimately, 22 or 25 years before from today, way back in 1974—it is nothing new; it was decided before 1974-it was conclusively settled to rest by the Indian Supreme Court that these questions of the President acting on his own under articles X and Y and being bound under articles A and B will arise frequently. It is a usual thing. Therefore, it arises. We must definitively settle this issue and decide in all the situations the President can act individually. In Shamsher Singh's case, way back in 1974, not two or three or four Judges, seven Judges laid down the law of the land which has withstood the test of time today, after 22 years. They have said that

barring the situation where the President may decide on his own in a dissolution case or where the incumbent Government has lost its majority, the President shall always act on the aid and advice of the Cabinet. If that is so, where is the question of your going to the President or to the Press and suggesting that the President *suo motu* and separately on his own shall approach the Supreme Court, whether under article 143 for advisory opinion or anything else? Now, to that question, article 79 is no answer. The answer you gave is irrelevant, as far as the Presidential power is concerned. Article 79 simply says tha the President is part of the Parliamentary process so far as passing of a Bill is concerned. But that is axiomatic. It has been known to us since that 16th Century when the British Queen was also treated as part of the Parliament that one of the two Houses will pass a Bill and the President or the Sovereign will assent to it. In that sense they are part of the Parliamentary process. But that does not mean and no President has ever suggested that it means and no one else has suggested that it means that the President shall have individual discretion in respect of Bills. That again is highly mischievous and misleading. But let me remind you that you have not only raised this issue, you have also obstructed Parliament on this issue. You have sought to go to the public and the Press by suggesting that refferal of this matter to the Supreme Court by the President without the aid and advice of the Council of Ministers is permisible. Let me remind you also of more recent law, definitive law on the subject. You mentioned article 79 completely irrelevant and unrelated to the subject. But let me remind you again of judgements which have drawn a very, very sharp distinction between the power of the President under article 111 and the power of the President under some special provisions where he does have individual discretion. That is a very interesting theme which makes the precise point which this Government is seeking to make and this House should make and that is this. The President under article 111 can return. The last four words say that if it is returned back by the House, the President shall assent to it. This is the Supreme Court, not me and you,...

SHRI N. JOTHI: Will you yield to me?

DR. ABHISHEK MANU SINGHVI: No, I am sorry.

SHRI N. JOTHI: Sir, he is giving wrong information. Under article 143, he can...

MR. DEPUTY CHAIRMAN: Mr. Jothi, your name is there. Have some patience. *(Interruptions)*...

SHRI N. NOTHI: Sir, under article 143...

MR. DEPUTY CHAIRMAN: No, I am not allowing. *(Interruptions)*. Nothing is going on record. *(Interruptions)*. Mr. Jothi, your name is there. You are going to speak on this. You can respond at that time. *(Interruptions)*. Whatever he is saying, is his opinion. *(Interruptions)*. You cannot say that. You have no right to say that. *(Interruptions)*.

DR. ABHISHEK MANU SINGHVI: Sir, my friend will do unto others including me what he would have me do unto you. The Supreme Court has described the power of the President and the power of the Parliament precisely under the very provision, *i.e.* article 111, as compulsory assent. If you want to check up the law—I don't want to get technical—it is by five judges, in 2002, 8 SCC-182.

MR. DEPUTY CHAIRMAN: Mr. Singhvi, don't respond to him.

Dr. ABHISHEK MANU SINGHVI: If you want paragraph, it is 76-77. What does the Supreme Court say?

MR. DEPUTY CHAIRMAN: You make your point. Don't respond to him.

DR. ABHISHEK MANU SINGHVI: Sir, I am not responding to him. It said, "Being an exercise pertaining to expression of political will, apparently the will of the people, expressed through the legislation passed by the elected representatives, is given prominence by specifically providing for compulsory assent or compulsory consent." But it did something more. In the next paragraph, it did something remarkable. It drew a distinction between other provisions where the President does have some discretion. For example, when a State legislation or a State law potentially may violate the Central law and it is reserved for the assent of the President under a different article 254, the President would have a different approach and a different discretion. That makes the precise point that today to draw the President into the political arena—by suggesting what—by suggesting that the President should refer for an expert opinion; the President can override Parliament; the President may delay it; the President may refer to an oath. These are extraneous, irrelevant and misleading matters and they don't deserve the attention of this august House. But let me go further and remind you that the House is ultimately the House which takes

responsibility about the validity or otherwise of a Bill. The House, when it passes any legislation, knows that *ex post facto,* in future, the courts may or may not strike it down. The House cannot be deterred in advance by merely creating cobwebs and ghosts to suggest that it is unconstitutional. The President has, nowhere in his reconsideration letter, or in his reconsideration reference, so suggested. Therefore, my friend is deliberately creating a ghost, a ghost of a fear of unconstitutionality and then shooting it down.

May I now turn to what the matter is as far as the Office of Profit Bill itself is concerned? The Office of Profit Bill is nothing but a simple exercise of power under article 102. Just like you must come back to the constitutional text under article 111, you must come back to the text under article 102. Again, as we all know,—we debated it in the earlier round—the words there are significant. It says, "Other than office declared by law, by Parliament, not to disqualify." Now these words are added for what reason? These words have been added for the reason that uncertainty will arise in the future whenever you are not aware of the posts. The Constitution could have itemised these posts. The Act could have itemised these posts. But the Act and the Constitution framers decided not to itemise these posts because they had to deal with future uncertainties, because they must have decided that situations mights arise in future which would require flexibility and would require a decision on what to add or what to subtract.

Sir, let me address the three issues raised by the President and presented in a somewhat distorted fashion by my learned friend. The first issue is of retrospectivity. The views of the President are entitled to the highest respect. But my friend himself accepts and admits that there is a judgement in the Kanta Kathuria's case which validates retrospectivity in respect of an Office of Profit Bill. What happened in the Kanta Kathuria case? A lady was an elected MLA, but she also drew honorarium and perks as the Government advocate. After the challenge, a law was passed. The law was challenged on the ground of retrospectivity; it was upheld. My friend then brings out a new test. The test which the brings out is a test of nexus. My friend says that there is a nexus...

MR DEPUTY CHAIRMAN: You friend has left.

श्री दिग्विजय सिंह (झारखण्ड): जो वकील थे, वे चले गए, अब हम लोगों को आप क्या कानून समझा रहे हैं।

श्री विक्रम वर्मा (मध्य प्रदेश): जो क्लायंट हैं, वे समझे हुए हैं।

डा॰ अभिषेक मनु सिंघवी: मैदान छोड़ कर जाने का क्या मतलब होता है...(व्यवधान)... मैदान छोड़ कर जाने का क्या मतलब होता है, वह आप सब जानते हैं। लेकिन कम-से-कम आप लोग यहां हैं, तो मैं समझता हूं कि जो मैं बोल सकता हूं, संक्षेप में बोल दूं। अगर आप उनको जो चले गये, उनको डिसओन करते हैं, तो मैं बैठ जाता हूं ...(व्यवधान) अगर आप उन्हें डिसओन करते हैं, तो मैं बैठ जाता हूं।

श्री मुख्तार अब्बास नकवी (उत्तर प्रदेश): आप अपनी पार्टी वालों से कहिए कि वे सुनें।

डा॰ अभिषेक मनु सिंघवी: उन्होंने तीन मुद्दे रेज़ किए। उन्होंने एक मुद्दा यह कहा कि there should be a nexus between the posts and Parliament any work. I want to tell you; neither the Bhargava Committee has said so, nor the Act of Parliament nor our Constitution framers said so. No document, no clause, no book ever says so. Just because one party says so today, we have to create a new legal text. If this is a new legal text, why did we have a constitutional power of exemption? Why was it necessary to provide for exemption in case you had to have a nexus? This is not a text in any situation, in any discussion.

Then, as regards listing procedure, the listing of certain posts is a universal practice followed in every country which has an office of profit dispensation. For example, in Britain, the List System is followed. There are no criteria. There cannot be criteria means that it is not possible to provide for every situation. Now, he talks about the pendency.

महोदय, मैं समझता हूं कि ये बात कर रहे हैं पेंडेंसी इन इलेक्शन कमीशन की। आर्टिकल 103 के अंतर्गत इलेक्शन कमीशन, उस कानून से बाध्य होगा जो कानून यह संसद पास करेगी और अगर यह कानून संसद पास करती है तो इसमें कोई भी बाधा नहीं है कि कुछ याचिकाएं इलेक्शन में इस वक्त पेंडिंग हैं। इसलिए यह बिल्कुल बेबुनियाद बहस है और आरोप है कि इस वक्त इलेक्शन कमीशन में कुछ मैटर्स पेंडिंग हैं।

The hon. President's views are, of course, entitled to the highest respect. The hon. President's views may, no doubt, be taken into account by the Government in any future dispensation or any future Committee which according to its wisdom may decide to embark on a larger exercise.

But, that cannot be any reason to suggest that this House should not pass this legislation. That is no reason to suggest that this House has less power, or, cannot, or is acting contrary to the Constitution in referring the matter back to the President. The point of the matter is simply this that you are entitled to practise hypocrisy. You will practise hypocrisy and double standards when you do this all over. You do this in Jharkhand. The Jharkhand Development Authority is headed by a Minister. The Chief Minister of Jharkhand heads another authority. At that time, your memories go weak. But, when, through this legislation, this House seeks to recognise a reality, what is the confusion about? This legislation is about recognising a reality, and that is the real answer. (*Time bell)* Sir, I will just take two or three more minutes. The reality is this. For 20-30 years, nobody has considered these posts...*(Interruption)*... Nobody has considered these posts to be monetary offices of profit. ...*(Interruption)*... Nobody has considered that these are persons who are rapaciously exploiting these posts. A reality existed. Several persons occupied it across parties. Several posts were occupied always by the Members of Parliament and by the Vice President of India. A reality arose in the light of some new developments. There has to be a mechanism to deal with that. The Constitution provides that mechanism to the Parliament, and this Bill does nothing but recognise an existing reality. It does not mean that in future a Committee may not devise new criteria. But, that does not mean that the reality cannot be recognised by this Bill here and now. And the opposition to this Bill is motivated. It is deliberately intended to State politically misleading statements and, therefore, Mr. Deputy Chairman, Sir, I propose that this Bill be passed in the manner it is presented.

श्री उपसभापति: श्री अमर सिंह।

श्री अमर सिंह (उत्तर प्रदेश): उपसभापति महोदय, बहुत-बहुत धन्यवाद। सब से पहले मैं बहुत आदर और विनम्रता के साथ कहना चाहूंगा कि आजकल समाजवाद पार्टी के सदस्यों पर विशेष अनुकम्पा है। वह इधर से भी और उधर से भी है। कल हमारे नेता के ऊपर अनुकम्पा हुई, आज उन्हें अपनी बात मजबूती के साथ कहने के लिए माफी मांगनी पड़ी। आज अगर इधर से हमारे ऊपर कृपा हो तो कल मुझे माफी मांगनी पड़ेगी, इसलिए मैं पहले अग्रिम माफी मांग लेता हूं। अगर आप लोगों को हमारी बात से कोई कष्ट हो तो मुझे माफ करिएगा। यह बिल 1959 से retrospective पास हो गया है। यह ईश्वर की कृपा है कि मेरा जन्म 1956 में ही हो गया था, यानि कि मैं उस समय 3 साल का था।

यहाँ पर चेहरों की बात हुई कि हर पद के साथ एक चेहरा है। एक चेहरा मैं भी हूं, जो लाभ के पद के इस बिल से लाभान्वित होगा। लेकिन मैं कहना चाहता हूं कि इस पूरे प्रकरण के मूल में कौन है और जड़ कहाँ से आई है, इसकी बात कोई नहीं कह रहा है। इस लाभ के पद का शिकार कौन हुआ है? निशाने पर कौन था? निशाने पर श्रीमती जया बच्चन और अमर सिंह थे और जया बच्चन निष्काषित कर दी गई। ...(व्यवधान)...देखिए, कोरस इधर से हम भी गवा देंगे। हम माफी पहले ही मांग चुके हैं। अगर सच कटु हो, तो उसको मान लीजिए। अगर बिल पास करवाना है, तो आप वैसा करिए, नहीं तो अगर कोरस गाना है, तो हम भी गाते हैं।

मैं कहना चाहता हूं कि निशाने पर जया बच्चन थीं। और जहाँ तक मेरा प्रश्न है, तो निर्वाचन आयोग ने कह दिया है कि अमर सिंह की नियति का फैसला, निर्णय हो चुका है और जजमेंट रिजर्व्ड है। संभवत: निगेटिव जजमेंट हो। बार-बार नैतिकता की बात जो हो रही है, बार-बार हमारे वामपंथी साथियों पर यह आरोप लगाया जा रहा है कि अपने सदस्यों की रक्षा के लिए यह बिल वे लाए हैं, इससे मैं पूरी तरह से असहमत हूँ, क्योंकि वामपंथियों ने बंगाल में, केरल में और त्रिपुरा में इनको भी और उनको भी बता दिया है कि उनकी हैसियत क्या है। अगर उन्हें अपने सदस्यों को बचाना होगा और निष्कासित अगर वे कर दें, तो वे उन्हें चुनवाकर ला सकते हैं। उन्होंने अपना दम-खम दिखा दिया है। मैं इनकी चापलूसी नहीं कर रहा हूं। ये हमारी सरकार नहीं चला रहे हैं। ...(व्यवधान)... ठीक है, हम अपनी बात कह रहे हैं, आप अपनी कहिएगा। ये सरकार इनकी चला रहे हैं, लेकिन इनको अपने सदस्यों को बचाने के लिए किसी बैसाखी की जरूरत नहीं है। इस लाभ के पद के घेरे में हमारी एक सदस्या चली गईं। पिछली बार जब मैं बोल रहा था, तो भारी मन से बोल रहा था। अबकी बार मन जरा हल्का है कि वे दोबारा आ गईं हैं। जहाँ तक हमारा सवाल है, तो हमारी नियति का निर्णय करके जजमेंट रिजर्व्ड रखकर हमको त्रिशंकु की तरह लटकाकर रख दिया गया है। अब हमारे सम्मानित साथी कहेंगे कि किसी छोटे-से कार्यकर्ता ने कर दिया, आला कमान को पता नहीं है। अखिल भारतीय कांग्रेस कमेटी के निर्वाचित सदस्य की शिकायत इस पूरे विवाद की जड़ में है। अखिल भारतीय कांग्रेस कमेटी का निर्वाचित सदस्य और कांग्रेस का प्रत्याशी, जो जया बच्चन जी के विरुद्ध रहा है, उसने शिकायत की और कांग्रेस के निर्वाचित सदस्य की शिकायत पर लाभ के पद का यह बवंडर उठा। जब यह बंवडर उठा, तो शीशे के घरों में रहने वाले लोग यह भी समझें कि जिनके अपने घर शीशे के हों, वे दूसरों के घरों पर पत्थर नहीं फेंका करते। ...(व्यवधान)... मैं यह कहना चाहता हूँ कि तेरा, मेरा ...(व्यवधान)...

तेरा मेरा शीशे का घर, मैं भी सोचूँ, तू भी सोच,

फिर क्यों तेरे हाथ में पत्थर, मैं भी सोचूँ, तू भी सोच। ...(व्यवधान)... और चेहरे की बात! अद्भुत बात है, चेहरे की। इस चेहरे की बात ...(व्यवधान)... बलिदान की नौटंकी की बात हम करें। ...(व्यवधान)...

4.00 P.M.

श्रीमती विप्लव ठाकुर (हिमाचल प्रदेश): सर, ...(व्यवधान)...

श्री अमर सिंह: नौटंकी की बात आप मत करिए। ...(व्यवधान)...

श्री उपसभापति: आप बैठिए। ...(व्यवधान)...

SHRI AMAR SINGH: ...*(Interruptions)*... Do not provoke me.

...*(Interruptions)*... I have not said anything unparliamentary.

...*(Interruptions)*... Why are you interrupting me? ...*(Interruptions)*...

SHRI V. NARAYANASAMY (Pondicherry): He should address the Chair. ...*(Interruptions)*...

श्री अमर सिंह: चेहरे की बात कर रहे हैं। ...(व्यवधान)...

श्री उपसभापति: आप मुझे एड्रेस कीजिए। ...(व्यवधान)...

श्री अमर सिंह: चेहरे की बात हमारे एक बड़े विधिवेत्ता इधर कर लिए और उधर के भी एक सदस्य ने नैतिकता का चेहरा बताया। इस बेंच से मार्क्सिज़्म की परिभाषा आ रही है और उधर से नैतिकता का भाषण सुनाया जा रहा है। क्या बात है!

जब भी जी चाहे नये चेहरे लगा लेते हैं लोग,
एक चेहरे पर कई चेहरे लगा लेते हैं लोग।
झारखंड में एक चेहरा और दिल्ली में दूसरा चेहरा।

झारखंड में लाभ का पद बड़ा जरूरी है, क्योंकि सरकार बचानी है और उस पर गवर्नर की सहमति भी मिल गई, तो झारखंड में ठीक और दिल्ली में खराब। इधर हमारे साथी जो भी बोले, नाम लेने पर फिर पता नहीं, क्या-क्या आरोप लगेंगे। कांग्रेस के प्रवक्ता और देश के महान वकील, प्रवक्ता की हैसियत से उन्होंने बयान दे दिया कि उत्तर प्रदेश में समाजवादी पार्टी की सरकार की रक्षा के लिए जो बिल लाया गया है, वह बिल आज हम केन्द्र में ला रहे हैं। जब उत्तर प्रदेश की विधायिका में यह बिल लाया गया, तो उनका बयान आया कि बॉलीवुड की एक्ट्रेस को बचाने के लिए यह बिल लाने की कोई जरूरत नहीं है। जब वही बॉलीवुड के लोग इनके दल में थे, तो बहुत बड़े सूरमा थे और अब हमारे साथ आ गए, तो पापी हो गए। इसके बाद नैतिकता की राजनीति की दुहाई दी गई और राज्यपाल से कहा कि उनको दस्तखत नहीं करने चाहिए। मैं कानून मंत्री जी का धन्यवाद देना चाहता हूँ कि संभवत: इनकी कृपा हुई, भारद्वाज जी की। ...(व्यवधान)... हां, यह दूरदर्शी हैं। इनको लगा होगा कि आगे जरूरत पड़ेगी। अब यह प्रवक्ता,

बड़ी लच्छेदार बात करने वाले, हम तो अनपढ़ आदमी हैं, हमको बोलने का पैसा तो मिलता नहीं, इनका एक-एक शब्द कीमती है। बहुत बयान हैं इनके और उनके भी।

महोदय, मैं कहना चाहता हूं कि जब उत्तर प्रदेश की विधायिका ने पास कर दिया, तो इन्होंने कहा कि राज्यपाल को दस्तखत नहीं करने चाहिए। तब प्रेसिडेंसियल रेफरेन्स की बात नहीं आई, तब धारा 111 की बात याद नहीं आई, तब विधायिका और राज्यपाल के टकराव की बात याद नहीं आई। मीठा-मीठा घूंट और कड़वा-कड़वा थू, यानी झारखंड में पास और दिल्ली में फेल, उधर उत्तर प्रदेश में फेल और दिल्ली में पास। कम से कम नैतिकता की बात न आप करें, कृपा करके आप भी न करें। संसद यह सुप्रीम कोर्ट या हाई कोर्ट नहीं है कि यहां पर आप किसी मुवक्किल को जिताने या हराने के लिए मुकदमा कर रहे हैं। यहां नैतिकता की बात अगर करनी है, सही मार्ग की बात करनी है, गांधी, लोहिया और जय प्रकाश की बात करनी है, तो उनके इथोस को सही मायने में पेश करिए। यह आरोप आप मत लगाइए कि वामपंथी, अपनी सत्ता बचाने के लिए और सीट बचाने के लिए, विजय की दुंदभि केरल, बंगाल और त्रिपुरा हर जगह बजाने के बाद जब यहां आए हैं वामपंथी, तो उनके ऊपर ...(व्यवधान)... बिहार में क्या हुआ, आपका गुजरात में क्या हुआ? यह क्यों कह रहे हैं? लेकिन, जहां जनाधार है ...(व्यवधान)...

उपसभापति जी, मैं यह अनुरोध करता हूं कि हम लोग जो यहां पर यह कह रहे हैं कि पारिभाषित हुआ है, वास्तव में पारिभाषित नहीं हुआ है। एक सुबह सुप्रीम कोर्ट ने कहा कि वह लाभार्थी नहीं है, जो पैसा नहीं लिया है, जो लाभ नहीं लिया है, वह लाभ के घेरे में नहीं है। यह सात खंड की पीठ थी। उसी सुप्रीम कोर्ट का अंतिम निर्णय आ गया कि जिसने कोई पद लिया है, वह लाभार्थी है। सुप्रीम कोर्ट का पिछला निर्णय सही था या सुप्रीम कोर्ट का अंतिम निर्णय सही था? यह तो हमारे इस तरफ बैठे विधिवेता साथी बताएंगे या उस तरफ बैठे हमारे विधिवेता साथी बताएंगे। लेकिन, जहां तक हम जानते हैं, हम अरुण जेटली जी की इस बात का समर्थन करते हैं और आज देश के एक प्रतिष्ठित अंग्रेजी अखबार में निरंतर छपने वाले सीताराम येचुरी जी के कॉलम में, जो छपा है, उसका भी समर्थन करते हैं। उस कॉलम में उन्होंने लिखा है कि लाभ के पद की क्या-क्या नियमितताएं होनी चाहिएं। मैं समझता हूं कि आज भी यह पारिभाषित नहीं हुआ है। मैं बिल्कुल इस बात को मानता हूं कि आज इस बिल के पास होने से जो लाभ मुझे मिलेगा, वह अनैतिक है। इसलिए मुझे बड़ी ग्लानि और शर्म है कि इस अनैतिकता में मैं भी शामिल हूँ, लेकिन मैं इतना जरूर कहना चाहूंगा कि मैं झूठा नहीं हूं और मैं दोहरे मापदंड को मानने वाला नहीं हूं, न हमारा दल है। अगर चीज उत्तर प्रदेश में सही है, तो दिल्ली में भी सही है। मैं इधर बैठे साथियों की तरह कि झारखंड में एक मत और दिल्ली में दूसरा, उधर बैठे साथियों की तरह कि उत्तर प्रदेश में एक मत और दिल्ली में दूसरा, इस तरह के दोहरे मापदंड की राजनीति नहीं कर सकता। मैं बड़े भारी मन से बड़े दुख के साथ इन बलिदानियों को प्रणाम करते हुए, इन त्यागियों

को प्रणाम करते हुए कि इन्होंने बड़ा बलिदान और त्याग करके लाभ के पद के मुद्दे को उठाया है, और राजनीति में अतिवाद की भर्त्सना करते हुए, अतिवाद सिर्फ धार्मिक उन्माद का ही नहीं, राजनीतिक बदले के अतिवाद का भी विरोध करते हुए — कभी रेड्ज़, कभी लाभ के पद का हमला, कभी टेलिफोन टेप, राजनीति में जो यह एक्सट्रीमिज्म है, यह जो बदले की भावना की राजनीति है, इसका विरोध करते हुए, बड़े भारी मन से, इन चीजों को राजनीतिक हथियार की तरह इस्तेमाल करने की गंदी, क्रूर और भद्दी राजनीति का विरोध करते हुए, मैं बहुत भारी मन से, बहुत दुख के साथ, इस अनैतिकता का समर्थन करते हुए इस बिल का समर्थन करता हूं। धन्यवाद।

श्री सीताराम येचुरी (पश्चिमी बंगाल): शुक्रिया उपसभापति जी, मेरे भाई श्री अमर सिंह जी के बोलने के बाद काफी कुछ तर्क बचा नहीं है, जिस पर मैं बोलना चाहूं।

श्री रवि शंकर प्रसाद: आप भी इस बिल को अनैतिक मानते हैं?

श्री सीताराम येचुरी: नैतिकता पर मैं आऊंगा, इसी सवाल पर। ...(व्यवधान)...

Sir, I rise to support this Bill on behalf of my party. I support the same way in which we had done last time when the Bill came for consideration. But on the last occasion as well we did put a caveat for our support and I repeat that caveat which, I think, has become more relevant now with the Presidential reference and the points that the President of India has asked us to consider. And, this caveat concerns the fact that there is a need — I repeat and underline — for us to unambiguously define what is an office of profit. This has been a lacuna that has remained

with us all these decades which needs to be corrected. Therefore, I would support this Bill with an assurance from the Government that there should be a Parliamentary Committee that will go into all these details and draw up an unambiguous list so that it can be applicable across the country and in all positions and that is something that must accompany the passage of this Bill. And that, I think, will also meet to a large extent, what the President has also sent in his reference to us.

But, Sir, various issues have been raised regarding the Constitutionality. I do not wish to go into that, because, I think, legal luminaries have debated that issue. But, I can only say, as Member of Parliament, I think, Article 102 of the Constitution is very, very explicit. It asks the Parliament, by law, to define which are offices of profit and which are not. So, I think, on that basis, the Constitutionality is not really an issue.

But, I somehow, आप ही की बात का जिक्र करते हुए मैं कहना चाहूंगा कि अभी हम अरूण जेटली जी को सुन रहे थे, उनका लैक्चर बहुत अच्छा लगा। वे कह रहे थे कि वे पहले दिन से इस विधेयक के खिलाफ थे, लेकिन जब नैतिकता की बात आती है तो मैं कहना चाहता हूं कि अगर वही मापदंड आप झारखंड और दिल्ली के बीच में लगाते तो हमें और खुशी होती।

श्री दिग्विजय सिंह: झारखंड के लिए तो माफी मांग लेंगे।

श्री सीताराम येचुरी: माफी मांगने से मापदंड नहीं ...(व्यवधान)...

श्री दिग्विजय सिंह: दिल्ली की संसद बड़ी है या झारखंड की विधान सभा बड़ी है?

श्री सीताराम येचुरी: यह फेडरल सवाल है। किसी भी राज्य की सरकार और उनके सदन का उल्लंघन आप यहां नहीं कर सकते।

श्री दिग्विजय सिंह: नहीं कर रहे हैं।

श्री सीताराम येचुरी: तो सवाल यह है कि जब नैतिकता की आप बात करते हैं तो मापदंड एक रखें, यह हम कह रहे हैं।

We hold the President of India and the institution in very high respect. All of us do. We have to. I mean, that is a part of the system. But, was't that the office of the highest Constitutional authority—to quote what Mr. Jaitley was taking about—when President K.R. Narayanan asked for stoppage of genocide in Gujarat ...(*Interruptions)*... Was any respect shown to him then? ...(*Interruptions*)... Today, you talk of...(*Interruptions*)...

SHRI DIGVIJAY SINGH: Where is the letter? You prove it ...(*Interruptions*)...

SHRI SITARAM YECHURY: I am raising this issue not to score points. I am raising this issue to State that there has to be a certain degree of consistency when you speak and talk of points of principles. There has to be consistency when you talk to this law being misused in order to save the Jharkhand Government. There has to be consistency when you hold in respect the office of President of India; the same consistency must be shown. So, don't change your principles according to your parties and politics. That is the appeal that I have Let us all stick to these positions of principle an on that basis let us advance and work for the well being of the country and its future. In that backgroud, I want to bring in this point that various issues have been brought...(*Interruptions*)...

श्री रवि शंकर प्रसाद: आप बिहार के बारे में ...(व्यवधान)...

MR. DEPUTY CHAIRMAN: Mr. Ravi Shankar Prasad, please let the debate go on. ...(*Interruptions*)... Please. ...(*Interruptions*)...

प्रो॰ राम देव भंडारी: बिहार में एक एमएलए ...(व्यवधान)... गोली मारने की धमकी दे रहा है ...(व्यवधान)...

श्री उपसभापति: भंडारी जी, आप बैठ जाइए ...(व्यवधान)... देखिए डिबेट चल रहा है, उसे चलने दीजिए।

SHRI SITARAM YECHURY: Sir, if I may continue, there have been allegations that my party is very interested to save the faces behind these posts; and in order to save these faces we are in a great hurry to bring this legislation today, and therefore, we have delayed the discussion on the Mumbai blasts. All of us have gone through the debate, I don't want to say that. We have, in fact, in the BAC, stated that the issue of Mumbai blasts must come before and got it listed yesterday. And, why the discussion could not be completed yesterday, all of us know that. I am not going into that. So, don't trade charges like this. That is not the issue. Everyone of us, sitting here, know that 31st is the day by which the Election Commission has asked for replies. Yes, it's a *quasi judicial* body; it has to serve notices; listen to these MPs. So, nobody is going to be disqualified on 31st. There is no great hurry to bring in this before the 31st. Nothing is going to happen on 31st. But the hurry was the respect to the hon. President of India that you have raised yourselves. *(Interruptions)* That's it. (*Interruptions*)

MR DEPUTY CHAIRMAN: Jaitleyji, please. ...*(Interruptions)*

SHRI SITARAM YECHURY: No. In fact, I am upholding that. You were not here in the House, when I said that. I am upholding the reference that he has made. He has asked for an unambiguous definition that will be applicable universally. That is precisely what I said last time, when I was speaking on this Bill. And, this is precisely what I am repeating now. That is the caveat that we urged the Government that alongwith the passage of the Bill, that announcement will have also to be made for the mechanism to work out so that we draw these definitions. I am very happy that Marx

was quoted from that side. It's actually a little enlightening. But the quotation is also in the wrong context. I will also come to that in a while. We want to go on record, I said this earlier and I am saying it again that we do not see any contradiction between holding some of these posts as well as being a Member of Parliament. That is my party's political position. As Members of Parliament, I think, some of them, will have to discharge other responsibilities to provide relief and service to the people. They will have to occupy some post. That is why I do not see anything objectionable in that. Here, the case is sought to be made to save the faces. He said that profit is the motive. Our colleague, Shri Matilal Sarkar, is here. He is the Chairman of the Tripura Village and Khadi Industries Board. Why did we decide that a Member of Parliament should be there? It is our party in the State Government. But, why did we decide? Coming all the way from the North-East Tripura is a small State, which has a small budget, which does not have much resources. They do not want to depute another person and pay for his entire charges for every month coming here. Instead, they said, and we said, that we would use our MP for that purpose. It is not profit, it is loss involved there for somebody else. It is not an Office of Profit, it is an Office of Service. (*Interruptions*) And, let me tell you ...(*Interruptions*)... I will come to it, Sir. ...(*Interruptions*)... It is an office of service. ...(*Interruptions*)... Yes, even the Shanti Niketan. I will come to the principles ...(*Interruptions*)...

SHRI N. JOTHI: What about Tripura ...*(Interruptions)*..

MR. DEPUTY CHAIRMAN: Mr. Jothi, Please ...*(Interruptions)*...

SHRI SITARAM YECHURY: Not bus fare. As Mr. Amar Singh said, you were not here, we are not paid for speaking, you may be. So, it is not bus fare. So, don't ridicule us. ...*(Interruptions)*... if a person has to travel from Agartala to Delhi every month, if you compute, it is a substantial relief we can provide to the people of Tripura by duplicating our MP in that post. We provide relief to the people of Tripura. Therefore, in principle, we do not think this is wrong. And, Mr. Moinul Hassan is here. He is also Chairman of the Small Industries Development Corporation. If you talk of the conflict of interest, this disqualification comes from two counts or possibilities. One is that while holding these posts they are able to influence voters, thereby, they are doing a wrong thing. Therefore, they will be liable to be disqualified. But, this would come under the Election

Petition Law. That is a separate thing. The other conflict of interest is, as a Legislator their job is to keep the Executive in check. Therefore, it should not be subserbvient to the Executive. That is the conflict of interest that arises in these positions. By being Chairman of this Small Industries Development Corporation in Bengal, how is he becoming subservient to the Executive here? Therefore, when you talk of these principles, then, you talk of the tangible issues involved. ...(*Interruptions*)... You cannot really club all these things and, somehow, try to portray that all these people are violating the constitution, they are profiteers, and they are people who are immoral. If that sort of a logic has been brought about, then, I think, it is extremely unreasonable and incorrect. If you really want to now talk in terms of actually resolving this conflict of interest, I would like to raise this issue and I want this august House to debate this point. Does the conflict of interest between the Executive and the Legislature arise only when the Legislators hold Government positions? Does it not arise when they hold private positions or corporate positions? For instance, in the United States if you are a Senator, then, till the term of the Senator, you cannot be on the Board of Directors of any corporate. Must we not, today, discuss that issue before us? Can we have professionals, who as Members of Parliament, can appear on behalf of somebody at the Bar? I am not opining on it. I am raising that issue. If you are talking of morality, you have to talk about all these issues ...(*Interruptions*)... We have to talk about all these issues. Therefore, I want an empowered committee to go into these issues. ...(*Interruptions*)... And, then, let us define, for India, for Indian morality, for the sake of upholding our morality, unambiguously, which are the positions, both in private and public sectors and the corporate world that Members of Parliament should not hold. We should prepare a list that these are the offices of profit that cannot be held by Members of parliament and only then we will be doing justice to the query that the President of India has sent us. So, I am urging this House ...(*Interruptions*)... Let us do it now. That is my caveat ...(*Interruptions*)...

Sir, I am only concluding by making this request to the Government that 'yes', we are for the passage of this Bill. Please, let me assure my friends in the Opposition—we have shown in the past too—that the only thing is that if we are disqualified, we will come back elected with a greater number of votes. Don't you worry about it. ...(*Interruptions*)...

We don't believe it. I have told you in plain English that I don't consider these as offices of profit. I consider these as offices of service. And, I say this, and it is on that basis I am making my position. You may disagree. You have the right. Please do it. But the point is, whether I am right or not, whether my interpretation is right or not is not the law. The law has to be made. The definition has to be made. Let us now announce that a commitee will make this definition, and, draw up this unambiguous definition so that in future this problem may not occur. This Bill is only a one-time solution. This cannot be a permanent solution and let us work for that permanent solution. With this caveat, I support this Bill.

SHRI N. JOTHI: Sir, we have heard about Executive arrogance. We have heard about Judicial arrogance. I have experienced it. Now I am seeing ...(*Interruptions*)... Please, Sir. ...(*Interruptions*)... Now, I am seeing Legislative arrogance. It is nothing but Legislative arrogance in this Bill. Sir, what are the Objects and Reasons? ...(*Interruptions*)... Let us see the Objects and Reasons. ...(*Interruptions*)... What are the Objects and Reasons? The object and reason is: 40 or more Members will have to demit their office and there will be 40 vacant seats in both Houses of Parliament. Sir, it necessitates by-elections. It will involve wasteful expenditure, unnecessary financial burden; so, let us legislate this. This is the plain reason. This is what has been said in the Statement of Objects and Reasons. Austerity is the main reason, and nothing else. You want to safeguard some money to the public exchequer. Sir, I tell you the reasons. Please cut short your foreign trips; you can save money. Please cut short your office expenses; you can save money. Please cut short your public addressings, showing ugly faces' you can save more money. Cut short your medical treatments abroad*. Sir, the real reason, you say, is, "we want to save some money to the public exchequer"...(*Interruptions*)...

THE MINISTER OF OVERSEAS INDIAN AFFAIRS (SHRI VAYALAR RAVI): Sir, that man is no more ...(*Interruptions*)...

SHRI A. VIJAYARAGHAVAN (Kerala): Sir, that man is no more...(*Interruptions*)...

SHRI N. JOTHI: No, this is the reason. This is the reason that has been given. Please read the Bill. These are the reasons given in the Bill. Mr. Vijayaraghavan, please read the Bill. Sir, this is the only reason given,

*Expunged on ordered by the Chair.

and, nothing else. If that be the reason, why have you brought this Bill at all? You can have austerity measures and cut short your expenditure. Don't make advertisements in newspapers...(*Interruptions*)...

SHRI R. SHUNMUGASUNDARAM (Tamil Nadu): You illegally occupied Siruthavoor lands and made money ...(*Interruptions*)... You had acquired *dalit* lands.

MR. DEPUTY CHAIRMAN: Mr. Shunmugasundaram, please...(*Interruptions*)...

SHRI N. JOTHI: Sir, I don't want these unnecessary interruptions...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Mr. Shunmugasundaram, please cooperate, because, yesterday...(*Interruptions*)...

SHRI N. JOTHI: Sir, the real reason is availabie in the schedule. The reason is identification of persons in the schedule. There are as many as 18 West Bengal MPs belonging to the Left Party. Without them, this Government can't go. Without them, the Government can't be run. So, they are helping the Congress people to run the Government. So, reciprocally, the Congress people want to help them to retain their seats...(*Interruptions*)... Sir, this is the real reason...(*Interruptions*)...

MR. DEPUTY CHAIRMAN: Let the Tamil Nadu politics not come into this.

SHRI N. JOTHI: I am sorry, comrades ...(*Interruptions*)... Sir, the neo-comrades, the neo-marxism made them to beseech this kind of a favouritism from the ruling party and have 18 people to be saved. This is the real reason ...(*Interruptions*)...

SHRI MATILAL SARKAR (Tripura): We can always come back...(*Interruptions*)...

SHRI N. JOTHI: Please come back. Go and come back. Go first, then we will see how you come back ...*(Interruptions)*... Go, first ...*(Interruptions)*... First, You go ...*(Interruptions)*... Good riddance ...*(Interruptions)*... The country will say, good riddance. Go, If you go, the Government will also go ...*(Interruptions)*... The Government will also go. The Country will be saved. Sir, let me be very serious in the matter. Sir, let me be very serious in the matter. Sir, let us be very serious in the

matter. The things are quite clear. There is a term called in law, *res ipsa loquitor*. Things speak for themselves. From the very names indicated, the very offices identified here, it is as if without these people the world will not survive, the country cannot survive. The parliamentary democracy will not be for ever. So, these people should be there for ever. They should be safeguarded, even at the behest of the public opposition. Even at the opposition of Parliament democracy, they should be retained here. I am sorry to say that we have reached this level. We have reached so low level which the President of India is good enough to unite us. Please be careful. Please be cautious. I am delegating this matter back to you. Please think twice before passing it. As I said, the arrogance of the legislation, this arrogance of the ruling party has, once again, brought the Bill in the same fashion thereby throwing the challenge on the President. They are challenging the President's authority. The President has given counselling to you in a good manner. You are not interested in talking it. You are not interested in it. The whole Cabinet sat through and passed this saying that 'we will not amend even a single world of it; we will retain every thing.' This is the respect you show to the President of India!

Sir, a friend in Congress Party has said that 'President has no option, except to assent this Bill under Article 111.' ...*(Interruptions)*... I am sorry, Sir, that this has been done like this ...*(Interruptions)*... I am giving you the reasons. We are going to witness it shortly. ...*(Interruptions)*... I feel the President of India who hails from Tamil Nadu is a good man like us. We are having conscience in our heart. We know how to react to a particular situation. We are humble and simple, and we are not arrogant. ...*(Interruptions)*... I hope the President will definitely refer this Bill to the Supreme Court of India for its expert opinion. In such a situation, where will you all go? What will happen to all of you? In such a situation, this *Sarkar* will necessarily have to go; come back if possible. Sir, let us not challenge the President. I appeal even to the Treasury Benches that let us not challenge the President. You should accept this advice. You should honour this feelings. These are the feelings of the whole country. He is reflecting the feeling of the whole country. The country has said, please have a re-look at it. But you are not interested to have a re-look at it,

Sir, the AIADMK Party wants to disassociate itself from doing this kind of exercise, which is anti-public.

Sir, I see eternal reason to oppose this Bill. There is another flaw in this Bill. The flaw is, you are not identifying the office. You are identifying the person. To safeguard that person, you want to enact law. This is the problem with this Bill. you want to safeguard 'x', 'y' or 'z' person, and then you are identifying the office and saying that 'we are exemping it'. Is it fair, Sir? Will it pass the test of law? Will the President give this assent to it? Will the Public approve this? Will the court approve this?

Sir, a few months ago, while opposing this Bill, I gave three reasons. The President has also agreed to all those reasons and set this Bill back. Please understand this. The same reasons still persist. The same reasons still persist. Sir, the public is watching us. But still you want to pass this law. Why, Sir? It is because you want to run the Government in an unholy manner, in a tainted manner. The Comrades are very unhappy. They have to go back to their constitutencies. They now have to again make public speeches and shout slogans and all that. They are not sure whether they would come back or not. And, if they go back, this Government will fall. ...*(Interruptions)*... So, to have political adjustments, they are saying, 'you help me and I will help you; we will share the booty; we will share the booty.' ...*(Interruptions)*... No problem, Sir. No problem. The public is with us. Don't worry. the public is with us. Here you may pass this Bill. ...*(Interruptions)*... Here you may pass this Bill. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Mr. Jothi, please address the Chair. ...*(Interruptions)*... As an Advocate, you have the practice to address the Chair. ...*(Interruptions)*...

SHRI N. JOTHI: Sir, this is not the first time that they are doing it. Sir, I am not surprised by this. .....*(Interruptions)*.... Sir, the Congress Party is not doing this for the first time. They are doing it traditionally. This is their habit. Whenever a person is in trouble, in deep trouble, they will bring a legislation. The best example is, when their Prime Minister lost an election petition and the matter was pending in the Supreme Court, they brought as many as eight amendments in 1975. Mr. Bhardwaj knows it very well. At that time, he was there at the helm of affairs, Sir, as many as eight amendments were brought in. Several new legislation were brought in to safeguard one person, to safeguard one person—the Prime Minister. This is their legacy; this is the system of working of the Congress Party. This is what they do. So, it is no wonder, when comrades beseech them

saying, 'please, help us', they are ready to help them, because this would please the comrades and help them to run the Government for a few more months. But, Sir, please, remember, the world is watching you; more so, the public is watching you. you are answerable to the public. You may stay here comfortably for a few more months .....*(Interruptions)*... or a few more weeks, but you have to go back to the public. You have to go back to the public! As Mr. Jaitley rightly said, in the debates on the electronic media, more than 90 per cent of the people who participated in the debate said that this kind of Bill was wrong. What is the great public motive in this, Sir? What is the great public motive in this? For which public purpose are you doing this? will the prices come down? will the per capita income of people go up? Now, what is the purpose of this legislation? it is to cling on to power, mutual power sharing adjustment to cling on! I am sorry, Sir, we dissociate curselves from this and strongly disapprove this.

DR. P.C. ALEXANDER (Maharashtra): Sir, I have no intention to go into the validity of the constitutional issues connected with this Bill. Learned lawyers by their profession, but who are eminent Members of this House, in their capacity as Members, have produced the arguments for and against.

I had no intention to go even into the moral issues involved. But, after listening to Mr. Yechury esteemed leader of the Communist Party of India (Marxist) in the House, I am tempted to speak only on the moral issues. He seems to be inventing arguments in support of Members of Parliament accupying offices of profit. But he forgets that the very basic principle of democracy, which we practise in our country under our Constitution, is the separation of powers. He must have been a student of Politics. I know that he was a student of Politics and he must have studied the textbooks of Montesqueue about Separation of Powers. I am astonished to hear him say today you can save money on TA by appointing an M.P. as Chairman of the State Khadi and Village Industries Board or you can nominate a person, for the sake of economy to hold two or three posts. If we accept that as a theory in democratic administration, it will destory democracy in our country, because our democracy is based on the principle that Executive, Judiciary and Legislature should function in their respective spheres, without one being able to show favour or patronage to another and without one interfering with the jurisdication and

responsibilities of the other. If we question these fundamentals, then we will have to go in for a new Constitution! With the Constitution that we have adopted, I am afraid, we cannot accept the argument which has been used by Mr. Yechury to support this Bill.

I am not against this Bill.I But I wish point out that, at least, we must resolve on this occasion that we will rectify the mistakes that had been committed by exempting more and more offices of profit for legislators. A legislation like the Act of 1959 is necessary, because in Parliamentary democracy, we have to exempt the Ministers, Leaders of Opposition, Whips and Chief Whips, and such persons from disqualification. There may be justification to exempt a few more categories of legislators in our system of democracy and give them the right to occupy such offices. But the intention of Article 102-1(a) was that they should be only exemptions. The rule is that you cannot occupy executive posts while you are a Member of Parliament or a Member of the Legislature. Exemption is provided because Ministers have to be exempted, whips have to be exempted. Certain positions you have to consider for Members of Parliament or Legislature out of sheer necessity. But what we have done? We have made exemption the rule. The number of people who have been exempted, both at the State level and the Central level, runs into several hundreds and each office has been recongnised or justified for some reason or the other which was not intended by Article 102. So, the first resolution that we would give ourselves is at the earliest opportunity we must prune down the number of these offices. Let us limit it to the bearest minimum number and then recommit ourselves to the basic cardinal priciple of separation of power. I would suggest that we must introduce a clause in the legislation, that not more than 4 per cent or 5 per cent of the number of Members of the Legislature should be allowed to occupy offices or profit, other than those included in the Schedule. This there will be an effective restraint on the Legislature in multiplying office of profit. There is a perception in this country, Sir, that we, Members of Parliament and Members of the State Legislatures are out to grab any post that is available for ourselves not necessarily for salaries because many of us may not care for salaries, but because all of us care for positions of power or influence. These are positions of power or influence. Why not allow other to take such positions? We should be contented happy in being an MP. There is enough work to do for an MP. An MP has to nurse his constituency.

He is a Member of half a dozen committees, very important committees. Serveral Members of Parliament do not attend these Committees because they may be Chairmen of Corporations, or running Khadi and Village Industries board etc. If we devote our full time as an MP or an MLA we will have no time for extra jobs. An important issue connected with it is. Why not encourage others even in our own parties to accupy these positions? That is one way of building up leadership in the parties and this country. Allow those who are members of your own parties to occupy some of these posts. Let them also have a share in such posts. But we try to monopolise everything for ourselves and that is why we have lost the respect of the Common people. They consider us as people using every opportunity to enchance our power and our influence and, therefore, I would earnestly plead that the law Minister, gives a commitment, that within a specified time he will bring in a legislation restricting the number of posts that can be covered under the exemption rule and making sure that whatever posts are availbale are allowed to be occupied by others who may be more qulified for such posts than many of us let us not arrogate to ourselves as Members of Parliament right to hold all these posts under the government. Look at the list of officers exempted. What is the justification for having only MP or an MLA for posts like Chairman of the Wakf Board of the Village Industries Board, or President of the Maulana Azad Education Foundation, or Chairman of the Indian Council of Sports, or Chairman of the Durgapur Development Authority or Hooghly Bridge Authority. There are dozens of People equally qualified as we are. Let us give them a chance. Why do we think that we, MPs are to have all that power? 'The kindom, the power and the glory is mine.' why do we appropriate that status of God that we are competent to have everything? Therefore, I would request the hon. Minister to come forward with a legislation limiting the number of posts which can be exempted. Otherwise, we will go on violating the rule. We tried 15 per cent rule on Ministers as the strength of the Council. But, I know three or four State Government which have appointed Parliamentary Secretaries in dozens and they have been given all the powers of Ministers. So, we find that we make a mockery of legislation. Somehow or other, we must ensure that the number of posts eligible to be exempted is limited to the barest minimum. I would also want to end by saying that even though the Law Minister said in this preliminary remarks that there need not be uniformity, this is the responsibility of States; they themselves can do. But, we made a legislation

curtailing the power of the State Government also after 15 per cent rule. Like that, we can think of ways and means to ensure that State Government are also restrained. Otherwise, there is no point only in restraining the Central Government in the matter of holding Offices of Profit. We should think of a legislation which will cover the States, lay down criteria which would be of uniform applicability, both for Centre and States and ensure that our Constitution works in theory and in practice. We, as Members have taken the oath on our admission to the Membership of the Legislature of undertaking the responsibility of not violating the Constitution through loopholes, but plugging the loopholes and maintaining the sanctity of the Constitution. With these words, I support the Bill, but with the earnest hope the hon. Minister will give an assurance in the House in his reply that he will bring a legislation to plug all these loopholes as early as possible.

DR. BIMAL JALAN (Nominated): Thank you, Mr. Deputy Chairman, Sir. I just want to make three or four points. First is about the role of Parliament. I believe this is, probably, the most momentous day in 59 years of Parliamentary history. There were two or three occasions when the Bills had been returned by the President of India, but I cannot recall a discussion on the memorandum which was sent by the President of India to this House. So, this is a very solemn, momentous occasion. Therefore, I rise to speak and the first point I want to make is about the role of Parliament.

Sir, we heard a lot about the separation of powers. Dr. Alexander just mentioned it. Mr. Jaitley also mentioned it. But, Sir, I believe that it is all a myth. There is no longer any separation of powers except at a time when the Government has to be formed. It is a very important point and, therefore, I am making it in the presence of the Leaders of this House that once the Government is in power, the Executive decides what will happen. You see it in this Bill. You have seen it on March 18 to March 22 when what you saw happening in Parliamenat, I could not have believed that it was possible. It was decided that the Parliament would be adjourned *sine die.* Then, it was decided is reconvene Parliament. It was decided that the Standing Committees would not consider the Budget. But, then it was decided that the Standing Committees would consider the Budget after being passed in Parliament. It was decided to pass the Finance Bill without discussion in those three or four days. I did not even know that it

was being discussed on that day. So, it is a very important occasion for us to deliberate and think about the role of Parliament. There is a thing called Anti-Defection law which was passed in 1985 by 52nd amendment of the Constitution, and then amended further in 2003. Now, what does that anti-defection law do? We say that all of us are sovereign; all of us are great; all of us are fantastic; all of us are independent. But, say there are half-a-dozen people on this and half-a-dozen people on that side who differed with the view of the party on the Presidential reference to this House, what would they do? they can't do anything. It is as good as taken that even if this Bill, whatever it said, whether it was Constitutional or unconstitutional, it is going to be passed by this House. So, Sir, let us deliberate on this issue that, at least, voting on the references from the President, should be exempted from the Anti-Defection Law. But it is not. You can take it for granted that the Bill, as it is, — whether it is good, whether it is bad — is going to be passed by this house at the end of the day. Yes, you can call for a division. But on a Presidential Reference, it is not the Parliament which decides as to what will be done, it is the Executive which decides as to what will be done. It does not matter which is the Executive. We have a very good Executive. We have had very good Executive in the past also. But this is an issue which is central to the role of Parliament, the diminishing role of Parliament, the diminishing role of the Members of Parliament. I don't belong to any political party. So, I can defect, I can vote against or for. But none of the Leaders, none of the other Members have this particular option, even on a Presidential Reference, which could be vital to the country. Sir, the presidential Reference here we are considering is not an issue or matter of national security.

SHRI H.R. BHARDWAJ: Sir, this is not a 'Reference'. it is a 'Message'. I may just inform you.

DR. BIMAL JALAN: I take your point, Sir. ...*(interruptions)*...

SHRI H.R. BHARDWAJ: You are a responsible Member of Parliament. There is a difference between a Reference and a Message. For example, the British Queen Communicates through messages. Our President sends Messages, which we have to discuss.

DR. BIMAL JALAN: Sir, I beg your pardon. But, Sir, will you tell me how many times...*(interruptions)*... Sir, I beg your pardon. I did not know.

Will you tell me how many times has this House discussed a message from the President, the Head of the State? How many times has it happened? Does it violate the simple point that I am trying to make? I am not an authority; I used the wrong words. But the importance of the occasion cannot be denied, and, that is what we are trying to do. I beg your pardon, Sir. Please forgive me. How many times in the 59 years of India's parliamentary history, have you discussed a message from the President of India, the Head of the State? How many times, Sir? The President of India, a distinguished scientist, is one of the foremost citizens of our country. How does this...*(Interruptions)*

SHRI H.R. BHARDWAJ: Once again, I request, let us not bring the President into...*(Interruptions)* You cannot bring ...*(Interruptions)*...

DR. BIMAL JALAN: Sir, in 59 years of India's democracy..*(Interruptions)* The point that I am trying to make is...*(Interruptions)*

SHRI C. RAMACHANDRAIAH: But, we are discussing whose...*(Interruptions)*

MR. DEPUTY CHAIRMAN: Mr. Ramachandraiah, please. *(Interruptions)*

DR. BIMAL JALAN: It is not an occasion. It is not an important occasion. Let us say. it is only a presidential message. It is not an important occasion But, Sir, I do not accept that, with due apologies. I have greatest respect for the Law Minister.

Sir, the second point that I wanted to make is-- and I want to refer it to the Leaders of the House -- what is this separation of powers, what is this role of Anti-Defection Law, the role of the Members, independents, all the big words that we use? Do they mean anything? The Party Leaders decide as to what will happen, the Parties decide as to what will happen, that's it, and, that will happen today, as you will see today.

Now, the second point I wanted to make about the Bill is-- and, I would like to take the point of Dr. Alexander -- what the Constitution says is that you cannot hold an office of profit. But you can certainly hold an office of non-profit. I am using the words, 'profit' and 'non-profit' as mutually exclusive. Therefore, if you want to say that an MP should not hold any office, then you have to amend the Constitution and say that he should not hold any office. So, the issue here is 'profit' and 'non-profit'. And, I believe, it is a matter of discussion whether he should hold an office or

not hold an office. But the real issue is defining as to what is the office of profit, or, its contrary, what is the office of non-profit, which we have not done. Now, if I look at the list of these offices, none of these offices seem to me to be an office of profit, *prima-facie.* But, we have not defined it. We have not defined as to what is the office of non-profit. I would have hoped that this particular occasion will be taken to define that 'office of profit', and, I know, it has been said in the Press that we don't know what it is like the world "negligible," We may not know how to define "negligible" but we can certainly define what is not negligible. Similarly we know what is an office of non-profit. I had taken the courage of suggesting to the Law Minister as to how to define it some week ago.

My disappointment with the Government, with due apologies to the hon. Prime Minister and the Cabinet Ministers, is that the President's reference, message for a re-consideration with arguments, came seven weeks ago. So, this seven weeks of time could have given us ample time to deliberate on this issue and hopefully, come up with a solution which the CPM is now asking for or the other Members are now asking for. And that would have been the response that I would have expected, that I would have hoped for. But, so far as the exempted offices themselves are concerned, it is a bad Bill because it exempts specific offices. Waqf Board, it may be in one State but not in another State, but there is no question in my mind that many of these offices are probably not offices of profit but offices of "non-profit." The problem is, not defining it in 59 years of India's independence. And I would have hoped that rather than presenting the Bill as it is, because it happens to be a message from the President of India, that we would have deliberated on it during the past seven weeks, given some cognisance to the points made by the hon. President and come up with a Bill which would have resolved the kind of issues that the leader of the CPM or the speaker on behalf of the CPM is today asking the Congress to do. We had seven weeks of time. Why it could not be done in these seven weeks, which can be done in the next six months, I do not know. And, if more time was necessary, I would have hoped there would be an introductory Preamble that we need more time and, therefore, we have come up with this *solution to a problem, which is not of national security, which is not of great national importance. But yes, I mean, where it is consequential even for some persons I don't mind it being exempted.

*Expunged as ordered by the Chair.

So, Sir, I just wanted to make these three or four points. When all things have been done, when this Bill is passed, as it is going to be, when the Parliament is going to assert its sovereignty by passing the Bill, which it may or may not like, I hope that in future we will not have to face this kind of an occasion at least for another fifty-nine or sixty years. Thank you.

SHRI RAM JETHMALANI (Nominated): Thank you, Mr. Deputy Chairman. Sir, I must confess that I speak with a total sense of futility. I know that this Bill has been passed by both the Houses before. It is going to be passed today. It will receive the compulsory assent of the President, as is required by the Constitution. It will inevitably meet the gauntlet of the Supreme Court, and, of course, the gauntlet of the court of the people...

MR. DEPUTY CHAIRMAN: Mr. Jethmalani one minute, please. Mr. Bimal Jalan, you have used the word * It is unparliamentary. I am deleting it.

SHRI RAM JETHMALANI: What is so unparliamentary about the word *? ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: No arguments please. ...*(Interruptions)*...

SHRI ARUN JAITLEY: Words when they are used in a particular context...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: I have verified it. There is a good precedent.

SHRI ARUN JAITLEY: Sir, I may be permitted to say this. ...*(Interruptions)*...

SHRI RAM JETHMALANI: It doesn't matter. He will use a synonym hereafter. ...*(Interruptions)*...

SHRI ARUN JAITLEY: Words used in a particular context may sound unparliamentary, but in another, it may not be unparliamentary. So, 'there is a *public opinion' cannot be unparliamentary.

MR. DEPUTY CHAIRMAN: I agree, Mr. Jaitley. I have verified it. Precedent is there in the same context.

SHRI ARUN JAITLEY: Last time, Sir, I used the word * on the Constitution.' The word * was deleted as unparliamentary. If I call somebody

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*Expunged as ordered by the Chair.

a *, it is unparliamentary. But, if I say * on the Constitution', that cannot be unparliamentary...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Let us not debate on that, please. Please carry on Mr. Jethmalani.

SHRI RAM JETHMALANI: But, Sir, even though I speak with a sense of futility, I think, it is a very, very important occasion today. I am not a constitutional historian, though I must admit that I am a very humble student of the Constitution. As far as my memory goes, this is the first time in the history of our Parliament that a Bill passed has been returned by the President under Article 111 of the Constitution. That itself lends some special significance to what is happening today in this House. Sir, the second aspect of the same matter is that it is the President of India, who, by convention and in some cases by law, is bound by the aid and advice of the Cabinet, has decided to refer this matter back to Parliament, knowing fully well that both the Houses of Parliament have passed it. Why has the President done it? He has done it not because he has any constitutional power in that sense. But his power is really moral and spiritual. He represents the conscience of the whole nation. He overrides the consideration of legal sovereignty. His sovereignty is of a totally different kind. Sir, I heard some light-hearted reference with the distinction between *'pad'* and *'chehra.'* But, Sir, no *'pad'* is important unless the *'chehra'* on it, or behind it, or over it is a person of great moral stature. *'pad'* and *'chehra'* cannot possibly be bifurcated. Sir, the post of the President of India is important because it has been habitually occupied by men of great calibre, whose views are of great importance, and whose views required to be considered with great reverence.

Sir, I don't accept the charge of Mr. Jaitley that there is something very immoral or underhand or unconstitutional in the manner in which this matter is being brought before the House. I don't accept many of the charges which Mr. Jaitley has made. But, Sir, I have one charge of which I cannot acquit the Government. And that charge is that we have not paid sufficient attention and reverence to the message which we have received from the President. Sir, why I say this, I must make it clear. Every political party in this country has a quest in this Bill. In a sense, every political party is a beneficiary of this Bill. They are not forced beneficiaries, but, as

*Expunged as ordered by the Chair.

5.00 P.M.

my great friend, Amar Singhji, confessed with his usual candour and humility, he is a beneficiary of this Bill. Sir, we are all beneficiaries of this Bill. I may not be, but because all friends and political parties surrounding me are, I cannot dissociate myself from them. I am also a beneficiary in that sense. Therefore, Sir, we have no reason to speak in terms of morality. We are all dyed deep with a heavy paint of immorality and let us acknowledge that fact and then proceed to justify this Bill and deal with the comments which the respected President of this country has made.

Sir, we all swear by the Constitution, and I believe that our reverence and fidelity to the Constitution requires that when you are caught napping and found guilty of a breach of the Constitution, you must gracefully accept the consequences of the breach of the Constitution.

Sir, I may have been a critic of the Congress Party, I may have been a critic of many Congress Presidents, but I wish to repeat a tribute, which I paid before on the floor of this House, that the present President of the Congress Party is the only person who has acted with great constitutional commitment and propriety. She resigned, and she went through the heat and labour of an election during the hot months of April and May. She got a complete respite, a new certificate of good conduct and commendation from the people of this country and came back with honour and re-occupied the position which she vacated at a time. I don't know, Sir, if there is anybody else who has done that.

SHRI AMAR SINGH: Shrimati Jaya Bachchan also ...*(Interruptions)*...

SHRI RAM JETHMALANI: My hats are off to that lady that she emulated this great example; and I must pay a tribute to the female gender that the greatest example of good constitutional bearer has come from the ladies in this country ...*(Interruptions)*...

SHRI AMAR SINGH: Shrimati Kapila Vatsyayan ...*(Interruptions)*...

SHRI RAM JETHMALANI: You happen to be more familiar with ladies. ...*(Interruptions)*... My tribute to you as well. ...*(Interruptions)*... Sir, while we are all immersed in immorality, in that sense, immorality does not consist in accepting an office of profit, the immorality consists in waiting

for legislation to be passed to redeem you from the consequences of a breach of the Constitution. That is imoral according to me and those who did not wait for Parliament to do it deserve the gratitude and the appreciation of the nation and those who so waited, at least, are estopped from talking on the anvil of morality. Morality is out. Sir, my friends in the BJP, they are all my friends today. They were my friends before and I hope we will continue to be friends for all time, except some who particularly offend me. ...*(Interruptions)*... Their immorality is accentuated by their.* They are the beneficiaries of this legislation. Not one of them has resigned who should have resigned and still now, they claim, "We are so moral that we are opposing this Bill." Sir, while you increase the charge of immorality against you by your*, you further compound it by the elequence of Mr. Jaitley.

He uses his eloquence which I canot hope to emulate. But I do submit, Sir, the this* has no place. Our atitude to* is also*, if not cynical. Sir, don't remove that word.

MR. DEPUTY CHAIRMAN: No, I am removing because it is unparliamentary.

SHRI RAM JETHMALANI: You can expunge it by all means.

श्रीमती सुषमा स्वराज (मध्य प्रदेश): 4 बार कहा है, चार जगह आया है।

श्री उपसभापति: जितनी जगह आया है, सब जगह से expunge होगा।

SHRI RAM JETHMALANI: Now, Sir, let me see what the hon. President has told us to do. Sir, he has made five points and each point is worthy of serious consideration and serious reverence. The first point that the hon. President has asked us to do is, look into the settled interpretation of this word. Sir, have we done it? I find that nothing of that kind has been done. You have exempted some offices. The only thing common to all these offices is that they are all constitution breakers; that they have broken the Constitution, wittingly or unwittingly, but, they have broken it; that they have incurred a certain consequence; that is the only common thread which unites all these offices in the schedule. What you should have done in reverence to the President and, in fact, what you should have done in the original legislation is, to formulate a common principle of

*Expunged as ordered by the Chair.

exemption which can justify these 90-odd or 40-odd exemptions which you have created. This has not been done, and Sir, my friend, Dr. Bimal Jalan, he is not a lawyer; he claims to speak like a layman, but, he said something so important and vital that it should not miss the attention of this House, and particularly, the Law Minister. What he said is that some of these offices which you have sought to protect by this law, are not really offices of profit at all. He is right. He did not spell out his reasons. I do not blame him. But, Sir, my own view of the law has been, and the Supreme Court has said nothing to the contrary till today, that an office of profit in which the holder of that office has no statutory power of any kind to make any decision, which can be binding upon a citizen or a section of citizens, is not an office at all, Before it becomes an office of profit, it must be an office. An office does not mean an office, which you get in the party office or something like that, or a table or a chair or something. The office means something which carries the power to affect the destinies of others. If that is so, it is an office of profit. Most of these offices are not really offices of profit.

Secondly, an office of profit must be an office of profit. A profit means that you must be richer by reason of holding that office. If you are paid a reasonable travelling allowance, reasonable daily allowance, it is an office of profit. The Supreme Court is very clear that an honorary office is not an office of profit. You have unnecessarily besmirched the holders of these offices, who are honorary holders of offices, and who are not holders of any statutory power of any kind. So, all this should have been spelt out and properly considered, and we have done no service to the President by not considering his advice number one. His advice number two is that, please consider the underlying constitutional principle of this particular provision in the Constitution. I regret again that there has been no application of mind to this aspect of the matter at all. The principle underlying this is based on the History of England. The Crown of England habitually used all offices of profit to hold his royal power against the popular power of the people of the country. Wherever the enlightened Britisher went, he introduced this provision that no member of the legislature shall hold an office of profit because that became a system of institutionalised bribery of the legislators. Sir, it was there in the Government of India Act, 1935. Nobody objected. In the Constituent

Assembly, the measure was adopted without discussion. So clear was its impact, and its implications understood. The hon. President says that, please inquire into this great principle, which is the basis of this provision, and then pass some exemptions. The exemptions must be those in which the offices are of such a nature that a legislator is better able to perform that office, in preference and in comparison to anybody else, and second, that he is, perhaps, able to perform it without the use of any statutory power, and perhaps, without enriching his pocket. Now, all these things are required to be considered seriously if we are to respect the exalted office of the President, and particularly, the current incumbent of that office, who has no axe to grind. He is a scientist; he is not a politician, and he has referred this matter to this House.

The third thing which the hon. President has asked us is to say what I have been saying all alone, and I had said it in my speech last time that underlying all these offices which you have exempted, what is the criterion of discrimination? There are still some offices of profit which will incur the disqualification. Why are those offices to incur disqualification and why not these offices, this is what he should make clear by showing that there is a rational discrimination? Otherwise, it will be that only the existing Constitution breakers are protected, but those who deserve to be protected on the same ground, are not protected, and this legislation is extraordinarily arbitrary, devoid of any basic principle and it will not stand the constitutional scrutiny of the Supreme Court. This is the third reason that Mr. President has told you.

The fourth reason, he said, is that there are pending judicial proceedings. Consider what you are doing to them. By this legislation you have created the impression that Parliament is of the opinion that even honorary holders of office and non-statutory holders of office who could make these points before the Supreme Court are now debarred from doing so. This is the way the Parliament itself has construed. it.

So, you have affected the destiny and the final conclusion of the pending proceedings. We have made no distinction about those, and we have deliberately disregarded the President's advice.

[THE VICE-CHAIRMAN (PROF. P. J. KURIEN) in the Chair]

Sir, the fifth and the last one, I am telling you, Sir, — I hope this Bill passes through the constitutional mill in the Supreme Court — is, the Constitution says that the holder of an office of profit will forfeit his office except an office which has been declared by Parliament to be exempt from this provision. It means, Sir, that the office is exempted from that at the time when the man comes to hold that office, Nobody challenges the power of Parliament to make retrospective legislation. By all means, you can retrospectively change the law, but this is not retrospective legislation. This is retrospectively undoing a constitutional consequence and the constitutional inexorable result which has arisen from the Constitution. This is totally different from saying that we have the power of making a retrospective legislation. Nobody denies it. This is a clause by itself. Exempted office is an office which is exempted on the date on which you are elected as a Member of Parliament or on the date on which you come to hold that office. So, Sir, all the five major concerns of the hon. distinguished President of India, I believe, have been sufficiently thrown to the winds. I also believe that this Bill will, ultimately, meet the fate which is, probably, deserved by all kinds of Bills of this kind and, in the process, Sir, we do seem to have violated the spirit of article 111. But, certainly, I do not subscribe to what Mr. Arun Jaitley has said. Thank you, Sir.

SHRI SHARAD ANANTRAO JOSHI (Maharashtra): Mr. Vice-Chairman, Sir, I rise with a very heavy heart not only about the contents of the present discussion on the Amendment Bill but about the manner in which it has been brought before this House. Sir, I know that Mumbai is in the grip of great tension today. This morning, a suspect terrorist was about to be lynched and he had to be saved by the police forces. It has come in the reports and the newspapers that on the 11th of July, seven blasts took place. That was the day on which seven of the buildings owned by Dawood Ibrahim were supposed to be destroyed. It has come in the newspapers yesterday that the Bombay High Court has decided that Sahara Sara, another big Mall of Dawood Ibrahim, is to be destroyed either today or tomorrow, and I have all the fears that today or tomorrow we are going to have a very massive explosion in Mumbai. It was under that cloud of fear, we demanded that the Office of Profit Bill ought not to get priority. Sir, just imagine if something really happens today, then that will be the darkest day in the history of Rajya Sabha, and tomorrow, we

will find it difficult to answer to the people why is it that we considered the Office of Profit Bill more important than what was happening in Mumbai.

Having said that, Sir, I would say that we have seen the message of the President, and saying that I told you so is not a very happy thing. But I have got a copy of my speech when the Bill came, for the first time, for discussion ...*(Interruptions)*... I must say that the President has only added two more points to the three points that I had raised at that time. There is no criterion. What ought to have been done is giving a definition, an analytical definition, of "office of profit" by attributes and making it applicable to everybody until, as Mr. Sitaram Yechury has stated, a Committee goes into that and prepares a definite criterion. There is no head-going hurry. We can prepare it before the next elections. Till then what ought to be done has been demonstrated. I share the compliments that Mr. Ram Jethmalani paid to the President of the Congress Party, even though I am not her admirer, and Shrimati Jaya Bachchan also. They followed the law, resigned, went back to the constituencies and came back re-elected. This was the right thing to do by way of remedy. I really don't see any reason why, rather than taking a principled and moral position, we are going in an awkward way which is not only immoral but is seen to be immoral. Last time, when this Bill came up for discussion, I said that this would not stand the scrutiny of the courts, I am still sure — you may pass it with any majority--that this is not going to get through the Supreme Court. Our friend, Dr. Abhishek Singhvi, said that it was not for us to bother about the legality of the thing. It is not true. In this House, I voted against the Bills, at least, on three occasions. On each of the occasions, I warned that it would not be legal and it came to be true. Take, for example, Quotas. The only two people who opposed were Dr. Chandan Mitra and myself. It was actually turned down by the court. On the Bill giving moratorium on destruction of buildings in Delhi, I raised my opposition voice and the Courts have rejected it. In this case also I can assure you that this Bill is not going to get through the courts. All that you peope are going to do is to take advantage of the time that will pass in-between to keep the Government going. Last time, I asked for division and voted against it. I will ask for division once again, if necessary, and vote against this Bill. Thank you.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Shri Syed Azeez Pasha. Please be brief.

SHRI SYED AZEEZ PASHA (Andhra Pradesh): Hon. Vice-Chairman, Sir, while participating in the discussion the legal luminaries have already thrown sufficient light on the pros and cons of the Bill. Last time, when I participated in the discussion, I had expressed the opinion of my party, why we are supporting and what the reasons are. I feel that certain ambiguities which were there in the Bill have now been clarified. I don't think that we are showing any sort of disrespect to the President of India by reviewing and passing this Bill because article 102 is self-explanatory. I want to say that when we, the Left parties, support this Bill, let nobody get the impression that in order to save the various offices of profit we are supporting the passage of this Bill. My learned friend, Mr. Amar Singh, has already pointed out that the recent verdict in West Bengal; and Kerala is a clear-cut indication. It was a massive mandate in support of the Left parties. So, we are not afraid of resigning and contesting elections once again. That is why our parties are supporting the passage of this Bill. Thank you.

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Shri Dinesh Trivedi. Dineshji, please be brief.

SHRI DINESH TRIVEDI (West Bengal): should I sit down?

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): I am the last man to say that.

SHRI DINESH TRIVEDI: This exactly is my point. This is the kind of respect we are giving to the message of the President of India. I thought that the message of the President of India would be taken with much more seriousness and attention which it deserves. Hon. Ram Jethmalaniji has aptly put it. It is not only legally speaking but also morally and spiritually. I expected the House to deliberate on this, not for four hours, maybe, for four days. But what I see here is that we want to curtail all the speeches also. Sir, I appreciate you because I also sit on this august Chair. We are compelled by the time given to us and I have no quarrel on that. My friend Shri Manu Singhvi, is sitting here. Since he mentioned about the developments in the morning, I am compelled and I also wish to join issues. He mentioned that we were merely disrupting the House. I an sure he did not really mean that. It was more worthy. Nevertheless, this gives me an opportunity also. There are certain things which are symbolic. Hon. Prime Minister of India, distinguished President of the Congress

Party, Rashtrapatiji, the Leader of the Opposition, all these powerhouses of India went to Mumbai—for what—to show that the whole country stands behind, the whole country is capable and will fight the terror. *(Interruptions)*. If you are not serious about listening to me, it is your choice. I am on a very serious note. If you want to have acrimony all the time, there is nothing I can do. I plead...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Please address the Chair. Don't respond to that.

SHRI DINESH TRIVEDI: As I said, it was very symbolic. They all went there. It was important; it was symbolic. We started this Session, we all remember, with two minutes *maun*. What was the quarrel in the morning? The quarrel in the morning was, I only wanted to know what had changed suddenly that we were curtailing the discussion on the Mumbai blasts and suddenly bringing something which was not anywhere near the importance...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Mr. Trivedi...

SHRI DINESH TRIVEDI: Sir, I have a right to know...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): The discussion is taking place because of the ruling given by the Chairman. Don't go to that.

SHRI DINESH TRIVEDI: Sir, I have a right to refute...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): You cannot directly or indirectly criticize the ruling of the Chairman.

SHRI DINESH TRIVEDI: This is not fair. When he was speaking, there was no interruption. Why did he start that? There was a charge levelled against us that we were disrupting the House. When it was said, I was the first one to get up. Still I have not got the answer as to what was so important and under which rule it was so important that we were compromising with the interest of one billion people of this country and trying to talk about the interest of 40 odd Members of Parliament. That is why I am very sad today. Certain instances in life leave a big scar on your entire emotions. Today's incident is one such which is, definitely, going to leave a scar on my emotions, and nothing can change that. Having said that ..*(Interruptions)*

SHRI JANARDHANA POOJARY (Karnataka): I am on a point of

order...

SHRI DINESH TRIVEDI: I am not yielding ...*(Interruptions)* He has to say under what rule he is raising it.

SHRI JANARDHANA POOJARY: It is under Rule 261. In the morning, the hon. Member, while addressing the Chair, made a charge against the Chair saying,"* He has made a charge against the Chair. That is on record ...*(Interruptions)*

SHRI DINESH TRIVEDI: Sir, if they are interested in disrupting the House...*(Interruptions)*. Sir, rule 261 does not pertain to a point of order...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): I will deal with that...*(Interruptions)* I will deal with that,. Mr. Poojary, if we have to expunge some remarks made in the morning, there is a rule for that. That cannot be raised as a point of order now...

SHRI JANARDHANA POOJARY: I have already given in writing...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Then the Chairman will consider it.

SHRI JANARDHANA POOJARY: Otherwise, the Press will publish it. It is a remark against the Chair...*(Interruptions)*

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): The Chair will consider it. Please sit done...*(Interruptions)*. But there is no point of order here. Mr. Trivedi, you please continue.

SHRI DINESH TRIVEDI: I am not on any ego hassle. If I had said something which I shouldn't say, I have no hesitation in saying...

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): Trivediji, please come to the Bill.

SHRI DINESH TRIVEDI: I am not on any ego clash. We are on a more serious note. As I was saying, I expected this House to deliberate this in a more serious manner, except the hon. Member and my very senior and experienced colleague, Shri Ram Jethmalani, who, point-by-point, mentioned the message of hon. Rashtrapatiji. And that is exactly,

*Expunged as ordered by the Chair.

what I felt, the whole Parliament should have been doing But, as I said, we are more in a hurry to pass this Bill.

[MR. DEPUTY CHAIRMAN in the Chair]

As I promised, Sir, I am not going to speak more than five minutes more, if you permit me. I have told earlier also when we were talking on this subject, I stand here today more to protect, as per the oath which I have taken, the spirit and letter of the Constitution rather than joining a debate for the sake of it. Sir, it is quite evident that it is not going to serve any purpose of my elaborating this discussion because if we had not listened to the sane advice of Rashtrapatiji, I am sure nobody is going to listen to my voice. His voice is the tallest of all of us. If that voice has not been heard, and if we have not heard his message in all sincerity under our command, than, my talking here will not obviously make much sense. However, I mentioned earlier also what my objection is, and I would like to repeat that. This country cannot have to sets of laws, one for the ordinary citizens and the other for the hon. Members of Parliament and Members of Legislatures. Whenever a citizen breaks a law, we all stand here and say, "Let the law takes its own course." But if a Member of Parliament is found, knowingly or unknowingly, flouting whatever law of the land is, then, what do we do here? We change the course of law. We don't say, "Let the law take its own course". So, this double standard will not go very well in the country. Sir, when they say that this is a Bill-and I had told last time also, when I was speaking on this Bill that this is not a Bill, to my mind, this is a paper of confession. You are confessing that these are the offices which are held; Like Jaitleyji has mentioned that there is a face behind each and every office. Sir, we are not exempting the office. What we are doing is, exempting the Member of Parliament, and not the office,. So, it was a statement of confession, and I still fell it is a statement of confession. Yechuryji mentioned about Tripura. I don't have any quarrel individually. But the fact is, if it is not an office-of-profit, if Shantiniketan and the rest are not an office-of-profit , why does it find a mention of that in the Bill? Can somebody explain that to me?

Sir, we have been talking about hypocrisy and other things. I don't think so. There can be more hypocratic approach to this than what had been talked about. Sir, it is very evident , as I had promised my friend,

Sureshji that I will not take more than five minutes, I am going to conclude in one minute. Just one minute. मैंने उनसे वायदा किया है।

श्री उपसभापति: आप बोलिए।

SHRI DINESH TRIVEDI: Sir, we have already proved that this is ultimately going to go through the scrutiny, and fortunately, our Constitution is above everyone of us. Fortunately, we have a Supreme Court in India, unlike any country. And ultimately, the test of this Bill is going to be there in the hon. Supreme Court. Sir, it remain me of-and this is where I will conclude-Shaheed Bhagat Singh; it remainds me of Chandrasekhar Azad; it reminds me of the son of Bengal, Khudi Ram Bose. Sir, they had no hesitation in giving up their lives for the country. What a shameful day to day that there are M.Ps. who are hesitating to give up their membership of Parliament. It is a shameful day. Sir, when the Parliament was attacked on 13th of December... *(Interruptions)*...

श्री उपसभापति: आपका एक मिनट हो गया है। ...*(Interruptions)*...

SHRI DINESH TRIVEDI: Sir, on 13th of December...*(Interruptions)*...

SHRI N. JOTHI: He is not having any office-of-profit... *(Interruptions)*...

श्री उपसभापति: आप बोलिए।

SHRI DINESH TRIVEDI: Sir, if they are going to disrupt me...

MR. DEPUTY CHAIRMAN: No, no; they are not disrupting you.

SHRI DINESH TRIVEDI: Sir, we have four hours for this Bill, and four hours are not over.

श्री उपसभापति: आपने एक मिनट का समय मांगा था।

श्री दिनेश त्रिवेदी: अभी चार घंटे खत्म नहीं हुए हैं। यदि वे डिस्टर्ब करेंगे तो हम बोलेगें ...(व्यवधान)... हम मिट्टी के नहीं बने हैं। शांत स्वभाव के होंगे...(व्यवधान)...

श्री उपसभापति: त्रिवेदी जी, देखिए आपको उनको ...(व्यवधान)...जवाब देने की जरूरत नहीं है। आप मुझे एड्रेस कीजिए।

श्री दिनेश त्रिवेदी: वे हमें डिस्टर्ब करेंगे तो हम बोलेंगे। मेहरबानी करके, आप हमें अपना प्रोटेक्शन दीजिए।

श्री उपसभापति: मैं आपको प्रोटेक्शन दे रहा हूं। आप भी अब कन्क्लुड कर लीजिए।

श्री दिनेश त्रिवेदी: हम कन्क्लूड करने ही वाले थे।...(व्यवधान)...

श्री उपसभापति: देखिए, आप बहाना मत कीजिए आप बोलिए।...(व्यवधान)...

SHRI N. JOTHI: Sir, he is talking about Mahatam Gandhi.

श्री दिनेश त्रिवेदी: महात्मा गांधी से अब उनका ज्यादा लेना-देना नहीं है।

श्री उपसभापति: आप बोलिए।

श्री दिनेश त्रिवेदी: श्री उपसभापति जी, अभी जब हम भगतसिंह की बात कर रहे थे, तो उनको ऐतराज था, हम खुदीराम की बात कर रहे थे, तो उनको ऐतराज था, हम आज चन्द्रशेखर आजाद की आत्मा को टटोल रहे हैं कि उन्होंने देश के लिए अपनी जान दे दी और आज कुछ संसद सदस्य ऐसे हैं, जो अपनी एमपीशिप छोड़ना नहीं चाहते हैं, देश के लिए जान देना जो बहुत बड़ी बात है। देश के लिए उन्होंने अपने आपको sacrifice किया था, लेकिन हम अपने आपको बचाने के लिए कांस्टीटयूशन को Sacrifice कर रहीं है। ...(व्यवधान)..

श्री उपसभापति जी, मैं कह रहा था कि जब 13 दिसम्बर को इस पार्लियामेंट पर आतंकवादियों का हमला हुआ, जो उन्होंने एक ढांचे पर हमला किया था और हम हिन्दुस्तानी उसका जवाब देने के लिए सक्षम हैं, लेकिन दु:ख की बात यह है कि आज इस पार्लियामेंट में जो भी वाकया सुबह हुआ या अभी इस बिल के जरिए हो रहा है, हम अपनी आत्मा को चोट पहुंचा रहे हैं। ढांचा जो कभी खड़ा हो सकता है, मगर यदि डेमोक्रेटिक आत्मा पर चोट पहुंचे, तो उसको खड़ा होने में समय लगता है।

MR. DEPUTY CHAIRMAN: Please conclude.

श्री दिनेश त्रिवेदी: उपसभापति जी, मैंने आखिर में एक ही शेर कहूंगा। हम इस पार्लियामेंट की आत्मा को खुद जो धक्का दे रहे हैं, उसके बारे में मैं एक शेर कहूंगा कि-

"चिंगारी कोई भड़के,
जो सावन उसे बुझाए।
सावन जो आग लगाए,
उसे कौन बुझाए?"

I oppose the Bill and during the course, I will ask for division also. Thank you.

MR. DEPUTY CHAIRMAN: Shri Abani Roy, you are the last Speaker.

श्री अवनि राय (पश्चिमी बंगाल): उपसभापति जी, इससे पहले भी इस बिल पर चर्चा हो चुकी है, अभी तो केवल पास करने वाली बात है। मैं इस बिल का समर्थन करते हुए, दो-तीन बातें कहना चाहता हूं। पहली बात यह है कि बार-बार जो office of profit के definition की बात आ रही है, यह definition आनी चाहिए।

श्री रवि शंकर प्रसाद : दादा, आप दिल से बोलिए, आपका दिल कुछ और है...(व्यवधान)

श्री उपसभापति: रवि शंकर प्रसाद जी, यह ठीक नहीं है।

प्रो. रामदेव भंडारी : इनके दिल की बात आप समझते हैं।

श्री अवनि राय : उपसभापति महोदय, इससे पहले भी हमने कहा था कि office of profit की definition ठीक ढंग से नहीं हुई है, जिसके कारण हमें इसे डिफाइन करने की आवश्यकता है। दूसरी बात यह है कि एक बार 1959 में यह लिस्ट बनानी पड़ी थी, उसके बाद फिर अब बनानी पड़ रही है। इसका कारण यह है कि जब श्रीमती जया बच्चन की सदस्यता रद्द हो गई, तो हलचल मच गई । इसी वजह से मैं कह रहा हूं कि जो office of profit है, office of non-profit हो, कुछ भी हो, इसको परिभाषित करना चाहिए।

तीसरी बात यह है कि आज यह चर्चा इसलिए हो रही है क्योंकि राष्ट्रपति जी ने इसे यहां भेजा है और कुछ टिप्पणी भी की हैं उस टिप्पणी का जवाब भी इसमें होना चाहिए। इसीलिए हम सरकार से दरख्वास्त कर रहे हैं कि इस टिप्पणी का जवाब हम इस ढंग से दें, ताकि आगे जाकर कहीं कोई असुविधा न हो। चौथी बात मैं यह कह रहा हूं कि भले ही इसमें कुछ सांसद बचे हुए हैं, ईमानदारी से कहें कि उनकी संख्या एक, दो, पांच, छप्पन, अठावन, साठ है, यह कुछ ठीक से कहा नहीं जा सकता। इसलिए एक को दोषारोपित किया जाए या दो को दोषारोपित किया जाए, यह ठीक नहीं है। अगर हिम्मत है, अगर morality है, अगर आदर्श की बात है, तो आप 56 के 56 रिजाइन कीजिए और आइए, वरना खाली किसी को टोकने से, किसी को बोलने से यह नहीं होता है। मैं इसलिए कह रहा हूं कि यह दिल की बात है, दिल वहां है, morality वहां होती है, but we won't believe in that, यह नहीं कि पालिटिकल फायदे के लिए आप इसको oppose करें। अगर आप उसी दिन इसको oppose करते, तब बात बनती। आज आप oppose कर रहे हैं, करिए, लेकिन यह भी आप राजनीतिक फायदे के लिए कर रहे हैं। कल से हमें बम ब्लास्ट पर जो चर्चा करनी थी, वह चर्चा नहीं हो पाई। आज हम जो चर्चा कर रहे हैं, हमें पता है कि अगर यह बिल पारित हो जाता है, तो पारित होने के बाद सबको फायदा मिलेगा। इसलिए हम कहीं इस का सर्पोट कर रहे हैं या इस को अपोज कर रहे हैं। आम ईमानदारी से कहिए कि हम क्या चाहते हैं, क्या नहीं चाहते हैं? इसलिए मैं चाहता हूं कि ऑफिस ऑफ प्रोफिट की डिफिनीशन भविष्य

के लिए ठोस होनी चाहिए। मैं यह भी कहना चाहता हूं कि यह जब बनी थी और जिस कारण से बनी थी, आज उस में कुछ परिवर्तन हो गए हैं। उस के साथ-साथ इस में भी कुछ परिवर्तन लाए जाने चाहिए। यह खाली पब्लिक सेक्टर या गवर्नमेंट ऑफिस की बात नहीं है। इसे जिस कारण से रखा गया था, अगर उसे देखेंगे तो हम इस का इस्तेमाल नहीं कर पाएंगे। मैं सोचता हूं कि इस के अंदर आज प्राइवेट सेक्टर की भी आवश्यकता है क्योंकि आज कई परिवर्तन हो गए हैं। आज संसद का रूप परिवर्तित हो गया है। आज सांसद आ रहे हैं, उन के लिए भी देखें कि यह लाभजनक पद है या नही है? इस का हम क्या इस्तेमाल कर रहे हैं? इन तमाम बातों को ध्यान में रखते हुए इसे ऐसा ठोस बनाएं और एक कांप्रेहैंसिव बिल लाएं ताकि आगे जाकर कहीं यह आरोप न लग सके कि कोई सांसद या एम॰एल॰ए॰ किसी लाभ के पद पर है। इसी के साथ मैं इस बिल का समर्थन करता हूं।

SHRI H.R. BHARDWAJ: Hon. Deputy Chairman, Sir, at the outset, I express my gratitude to all the hon. Members who have, by and large, spoken well on the message of the hon. President. But, before I come to the merits of the comments, I would like to emphasis one thing, in the Parliamentary democracy and traditions of Parliamentary democracy, in that, the role of the head of the State, we have followed the British pattern and President occupies a very high office. As they call in Britain 'his Majesty' or 'her Majesty's Government', so, in India this is the 'Government of the President'. We are the Ministers acting on the allocation of business by the hon. President. So, there should be no apprehension in anybody's mind that there is any desire to do anything contrary to the wishes of the President and his name should not be dragged in the controversy at all, as, Sir, this morning, and two days ago, after the message was printed. Like the British Queen, the President also does not attend the House every day. He communicates through messages. This is the tradition of Parliamentary democracy. Like the British Queen who communicates to the House her messages, the same pattern we follow in India. The President also communicates through his message and he is within his Constitutional rights to send message for our guidance. He also addresses both Houses of Parliament.

SHRI N. JOTHI: Mr. Law Minister, will you yield to me?

SHRI H.R. BHARDWAJ: No, no, not at all. We should be disciplined *(Interruptions)*

SHRI N. JOTHI: There is no written Constitution in England. In England, there is no written Constitution. Let us not compare.

MR. DEPUTY CHAIRMAN: That makes no difference. Please sit down, Mr. Jothi.

SHRI H.R. BHARDWAJ: I am very sorry; this is not the way...

MR. DEPUTY CHAIRMAN: He is not yielding. I can't allow. It is not a debate. Please sit down. He has the right to say and there is no need to intervene.

SHRI N. JOTHI: Only in India we have a written Constitution.

SHRI H.R. BHARDWAJ: Sir, we are all advocates. We should have basic etiquette. Just now we were saying that we should discuss this message very seriously with all the consideration to the points sugested by the hon. President in his message. I want particular attention, particularly, focussed to those points. I am very keen that we should discuss, debate and find out the solution because the hon. President has been pleased perhaps to raise several issues. Basically, they relate to three to four points. The first issue is, probity in public life and what I have been able to locate from the point of emphasis is probity in public life and ethical values, avoidance of conflict of interests and respect for the institution of democracy. Sir, there can be no two opinions on this and we have very keen desire that we should promote all the values of our Parliamentary democracy. But, there are certain issues which have been judicially decided, for example, Parliament's power. Sir, in the same Article, which provides disqualification, the power has been conferred on the Parliament. It says, '....other than an office declared by Parliament by law not to disqualify its holder.' So, these two lines are very important. On the one hand, the Constitution says we shall not hold office of profit. But, in the next lines, added to it, it says, 'other than offices declared by Parliament' which are not offices of profit or exempted. So, when Parliament exercise these rights, it is the duty of Parliament — Parliament applies its power—and this is what exactly has been said in several cases. Under Article 102 (1)(a), of course, Parliament has the jurisdiction to declare an office as not to disqualify its holder, for example, Sibu Soren's Case. For the benefit of the hon. Members who have spoken, the Sibu Soren case was in 2001. And then, the most important case in the legal

history of India on this particular issue—Parliament power and Parliament legislating retrospectively—is a case of a Five-Judge Bench of the Supreme Court headed by one of the greatest judges, Justice Hidayatullah, Justice Sikri and Justice A.N. Ray who became the Chief Justices and one of them had the privilege to be the Chairman of this House, Justice Hidayatullah. What do they say? I will not go into the details. They said categorically two things. They said, (1) Parliament has power to exempt those persons who are likely to be disqualified for office of profit. And then, while doing so, if they are removing the disqualification retrospectively, it is very much within the power of Parliament. I will just read out one thing which was argued by the great M.C. Chagla and the Supreme Court answered, 'great stress was laid on the word ' declared' under 191. But, we are unable to imply any limitation on the power of the legislature.' So, there are no limitations. Morality, this and that are all political arguments which Arun normally raises when he has no legal argument to advance. That is his eloquence, I know. He is a young man with full of energy. What can he do when he has no legal point? He has to argue on morality. But, what he has not replied is Kanta Kathuria's case. Whether you are denying legislature's competence to declare any office of profit exempted. A great stress was laid on the world 'declared' in that article. But, we are unable to imply any limitation on the power of the Legislature.

The second point is, again, apprehension that it may not be a healthy practice and this power might be abused in a particular case. Or, no grounds, again said emphatically, for limiting the powers of the legislature. This House must take cognisance of this. When the hon. President of India has sent a message what is the importance of the message? He is within his right to send the message. And, he feels that hereinafter we should evolve better ethical principles so that there is no conflict of interests in the functioning of Parliament. There should not be any executive influence on the legislatures. They, perhaps, moved the President to make this reference. Under Article 111 which says, 'the President may..specified provisions thereof....will consider the desirability of introducing any such amendments....' The President has not suggested any amendment to this Bill. Hon. President has raised general points 1,2 and 3. And, we have to seriously consider them. I would have been very happy, rather than importing politics into it, we could have considered them and I would

have replied them point-by-point, because we are not less committed in the matter of public morality or, for that matter, probity or, principles. Great sermons have been delivered to us. I have 25 clean years of political life. We know when we come to Parliament it is our duty to assist the Chair in conducting the business of the House. What had happened in the morning? On one pretext or the other they are just postponing consideration of this message. This is not relevant. We must take each point which has been mentioned in the message—evolution of generic and comprehensive criteria; the implication of exempting of the names of holders of offices legitimately disqualifying a Member; and, soundness and propriety of law in making the applicability of the amendment retrospectively. These are very noble points which have been raised. As they come from the hon. President, we should satisfy him by debate not by fighting each other, not by acrimony. This is not parliamentary etiquette or democracy. We should satisfy the hon. President that Parliament has considered his viewpoints very seriously and that we are very grateful to the hon. President for having made these points. It will enable us to work for better options. Who denies that there can't be better options on these issues? There is an issue of tainted Ministers. There is an issue of disqualification. There is an issue of ethical value in Parliament. Recently, the Committees have gone into several issues regarding parliamentary democracy and strengthening the parliamentary democracy. Several issues are pending with us. If we will not apply our mind to those points clearly and with dedication, we will reach nowhere. Then, whom will you blame? Let me tell you the history. The first amendment in the Constitution came by way of 42nd Amendment, I think Mr. Arun will be aware of it. It was annulled by 44th Amendment. What was provided in the 42nd Amendment law It was that the office of profit is not defined in the Constitution, let a comprehensive list of the offices of profits be drawn so that no MP could occupy those offices. It is the one practice which is being followed in Britain even now. The Parliament declares, by a Resolution, that these are offices of profit. And, every now then, they go on adding to them. It is a big list. It was involed in the 42nd Amendment, but it was annulled in 44th Amendment. The law that I am protecting before you is the constitutional provision 102, adopted in the

44th Amendment. Now, this is the provision, today, in the Constitution. Thereafter a Standing Committee on Office of Profit also went into it. But Somehow or the other we have not been able to coin a definition because of the several judgements. The Supreme Court says that we cannot create a basket. In Sibu Soren's case they say, "A practical will, not pedantic basket of tests must guide the courts to arrive at an appropriate conclusion". We have to examine all these things. And, then, if the Constitution could be amended... we amended Constitution, for Anti-detection Law, in the Tenth Schedule, I put it in the Constitution. Thereafter, the Anti-defection Law has faced several difficulties till today in interpretation. So, this is a question that is very relevant. Times have come to debate probity in public life, morality, and criticism by media. I am one of those who believe that media has a role in parliamentary democracy. But Parliament is supreme in deciding policy matters. The media may be guiding us. We can take a note of the public priority. But are you going to abdicate your own power in Parliament to discuss objectively the message of the hon. President? I agree with my senior colleagues, Mr. Ram and Mr. Jalan, that it is for the first time that the hon. President has been pleased to send a message. And, every now and then, we would like to have messages from the President for our guidance because we are his Government. When he says that it is his Government, he really says that it is his Government. There can be one question of defying the President. You are using wrong constitutional provision. I was surprised when it was canvassed by a delegation of the Opposition that the President can resort to article 143. This kind of argument form legal luminaries is being advanced that by ignoring the Cabinet he can proceed under Article 143. I am surprised to what extent you are taking the nation for this falsehood. We cannot accept this proposition that you can bypass Parliament or the Cabinet in democracy. This President is the father figure in the Constitution. And, we are always very keen to have guidance from him. We always like to give the highest consideration to the suggestions made from this high office. Therefore, don't say this, and, for God's sake put a full stop to what you did today. This is high time you realise it. You attack the Election Commission, you attack the President, you attack, sometimes, the courts. This is not the way. ..(*Interrruptions*)... You may go on raising voices. ...(*Interrruptions*)... No; this is not the way. If you want every institution to be attacked, and if this tendency continues, then, nobody can defend Parliamentary democracy, You don't allow us to

defend. You don't allow the Question Hour submissions. This is not the way we should act. You had ben in Power. You enjoyed power for nine years and we had tremendous regard for each Minister. Today you don't allow us to make submissions. This is where we must ponder over and this is the job we have been entrusted by the nation. Though the mandate of the public is that this side should govern, tomorrow, you may be there or anybody else may be there. Now, you are maligning you own colleagues. I am very much surprised that you are particularly making allegations against sitting Members of Parliament that they are greedy, they are bad. They are serving the people. Don't you press everyday that you include Members of Parliament to supervise development work of their districts or constituencies? What is their office of profit in it? Is there any greed in it? Because you don't see eye to eye with the left, therefore, attack them in whatever manner you can. This is not the spirit of the Constitution. Therefore, you use the word, lalach, for 'office of profit.'What is it? Members of Parliament do not function throughout the year. If they go to their constituencies and supervise the development work of that area or the adjoining area, there is no big profit office in it. So, we will examine this. We are prepared to sit with you. But for God's sake, let us come to a consensus. After all, what are we discussing today? We are only discussing how a Member of Parliament's prestige can be defended, how we can exactly know what an office of profit is, and what we should exempt. Those Members of Parliament; sitting Members of Parliament, who are under attack, none of the petitions has been filed with full material facts or particulars of disqualification. This is the clearless manner in which they, are treating their own colleagues. We should give full particulars that in this way the man is disqualified. Now, you are making inquires and saying that give us this and that record. You must do your homework. If anybody is going to be disqualified, and if a serious charge is levied against a sitting Member, then, I must request that if allegations are made against a sitting Member of Parliament, they should be made with full responsibility and with full particulars of the alleged misconduct. But that does not mean...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Please don't interrupt. ...*(Interruptions)*...You go on...*(Interruptions)*...Please don't yield.

SHRI H.R. BHARDWAJ: Sir, I am not yielding...*(Interruptions)*...I am replying to what was said. Therefore, Sir, right from Kantha Kathuria *versus*

6.00 P.M.

Manak Chand 1970 SC 702—Shri Arun Jaitley may have a look at it, he was a Minister, he knows it-that retrospective legislation is valid. Secondly, there is the Shibu Soren's case. Recently, in the hon. Member, Shrimati Jaya Bachchan's case, the Supreme court has again given the same guidelines that we cannot live on the basis, we will have to really interpret what is an office of profit. Therefore, all these considerations are there. We have come with this Bill to protect definitely, some hon. Members. We have not minced words. We have given it in the Statement of Objects and Reasons that 40 hon. Members are likely to be affected and a lot of expenditure will in incurred. Therefore, again I may submit that it is not me, or, the Government which can exempt them. This august House and that august House will have to apply their minds and then give a verdict whether to exempt it or not exempt it.

This is a wholesome principle. The Constitution empowers Parliament. When Parliament is empowered, it gives it verdict and we should respect the verdict of Parliament. Therefore, all these fallacious arguments, they are creating a whip, still, on this issue nothing unusual has happened. All the leaders of Opposition are exempted under this very law. All the Chief Whips are enjoying this facility under this very law. All Commissions of national importance have been exempted under this law. But when it came to certain other party leaders, they are sore about it. Either say that we won't accept these perks and other things, we will work for free. But all these have been accepted. And, now, there is no other procedure by which you can exempt. We have come to Parliament. Parliament has debated it once, and the hon. President of India has raised these points. I have elaborately explained and I am with within my rights, as a Minister, to say that retrospective legislation is valid. It has been done and upheld by the court; and Parliament has the powers to do it. But, one thing I would like to say before I conclude is that various important issues have been raised. After the 42nd and 44th amendments, new points have been raised. And, now comes to the fore the issue of involving a generic and comprehensive criteria as just, fair and reasonable which can be applied across the States and Union Territories in a clear and transparent manner. This is a challenging job and it can be undertaken only if all the parties join us. On probity, there should be no partisan attitude; on integrity, there should be no partisan attitude; on conflict of interest, there should be no

partisan attitude; and this Government, particularly, is very keen to make any improvement if it is possible within the constitutional limits. We will be very willing to ask this House to constitute a Committee and get going immediately after this Bill is passed. My friend, Mr. Yechury, suggested— I have read his article but you must have also read A.G. Noorani's article, and, that, perhaps, Mr. Arun Must have missed. You must read what comes in the Media. It is not one-way traffic. So, therefore, if you are really sincere on promoting probity in public life, this is the time. We should be greateful to the hon. President to have drawn our attention to this issue. After this Bill is passed, the Government will be ready to constitute a committee of this House, to constitute a Committee of both Houses to go threadbare with the problem and come with a solution. Sir, I once again, than all the hon. Members and you, Mr. Deputy Chairman, for giving me this opportunity. Thank you.

MR. DEPUTY CHAIRMAN: The question is:

> "That the Parliament (Prevention of Disqualification) Amendment Bill, 2006, as passed by the Houses of Parliament and returned by the President under the proviso to article 111 of the Constitution, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of Bill. Insertion of new clause. 1-A; there is one amendment for insertion of new clause 1A No. 3, by Shrimati Sushma Swaraj and Shri S.S. Ahluwalia. Do you want to move the amendment?

SHRIMATI SUSHMA SWARAJ: Sir, I move:

NEW CLAUSE 1-A

4. That at page 1, *after* clause 1, the following new clause be *inserted,* namely:—

'1A. In section 2 of the Parliament (Prevention of Disqualification) Act, 1959 (hereinafter referred to as Principal Act) after clause (a), the following clause shall be *inserted namely:*

(aa) "Office of Profit" means any office under the Central Government or the State Government the holder of which may, by virtue of the office,

have the ocassion of exercising executive, financial and ancillary powers, notwithstanding the fact that the holder of such an office is either drawing no allowance or an allowance which does not exceed the daily allowance admissible to a Member of Parliament or a Member of the State Legislature."

The question was proposed.

श्रीमती सुषमा स्वराज: उपसभापति जी, मेरे सहयोगी श्री अरुण जेटली जी ने ...(व्यवधान)

श्री उपसभापति: नहीं, आप अभी भाषण तो नहीं कर सकतीं...(व्यवधान)

श्रीमती सुषमा स्वराज: मैं भाषण नहीं कर रही हूं...(व्यवधान)

श्री जनेश्वर मिश्र: इसमें भाषण मत दीजिए...(व्यवधान)...

श्रीमती सुषमा स्वराज: सर क्या मेरे सहयोगी कहने पर भाषण हो गया...(व्यवधान)... मेरे सहयोगी कहते ही भाषण हो गया...(व्यवधान)...

श्री जनेश्वर मिश्र: आपने तो केवल एमेंडमेंड मूव करना है...(व्यवधान)...

श्रीमती सुषमा स्वराज: उपसभापति जी, मेरे सहयोगी श्री अरुण जेटली जी ने इस बिल के संदर्भ में हमारी पार्टी का दृष्टिकोण रख दिया है, इसलिए मैं अपनी बात केवल उन संशोधनों तक सीमित रखना चाहूंगी, जो मैंने और अहलुवालिया जी ने इस बिल के संदर्भ में प्रस्तुत किए हैं।

उपसभापति जी, इस बिल पर सत्ता पक्ष के दल और वामपंथी दल के लोग चर्चा करवाने पर आज वज़िद क्यों थे, इस रहस्य को पर्दाफाश भी आज अरुण जी ने कर दिया। मैं केवल एक बात रिकॉर्ड पर लाना चाहती हूं और वह यह कि मुम्बई बम विस्फोट जैसे दर्दनाक विषय वर चर्चा रोक कर हमने विषय लिया, यह न न्यायसंगत है और न तर्कसंगत है।... (व्यवधान)...

श्री उपसभापति: आप अमेंडमेंट पर बोलिए...(व्यवधान)...

श्रीमती सुषमा स्वराज: मैं केवल अमेंडमेंट पर बोल रही हूं।...(व्यवधान)... क्योंकि चेयरमेन साहब की रूलिंग थी इसलिए हमने इसमें भाग लेना स्वीकार किया।...(व्यवधान)... तभी तो मैं संशोधन पर बोलूंगी मेरा संशोधन पर बोलूंगी मेरा संशोधन क्या है इस पर तो मैं बताऊंगी, कयोंकि संसदीय कार्य मंत्री ने यह बात कहते हुए कि आज यह बिल क्यों लिया जाए एक तर्क

रखा और वह तर्क यह था कि राष्ट्रपति जी ने संदेश भेजा है, इसलिए चर्चा कर ली जाए। जब वे तर्क दे रहे थे तो मुझे मन ही मन हंसी आ रही थी कि एक तरफ तो राष्ट्रपति जी की सारी आपत्तियों को खारिज करके यह बिल लाया जा रहा है और दूसरी तरफ ...(व्यवधान)...

SHRI PRIYARANJAN DASMUNSI: Mr. Deputy Chairman, Sir, it is part of the record. I never said in the House that it was because of the message. I said, " in the morning, we resolved in an informal discussion and to that decision, she was a party, and based on that, the Chair gave a ruling. We liked to honour the ruling, and nothing beyond that."

श्रीमती सुषमा स्वराज: उपसभापति जी, मैं अमेंडमेंड क्यों दे रही हूं यह बोल रही हूं।

श्री उपसभापति: वह बोलिए न।

कुछ सम्मानित सदस्य: वह नहीं बोल रही हैं आप ...(व्यवधान)..

श्रीमती सुषमा स्वराज: सरकार मूल रूप में बिल नहीं लाती तो मैं संशोधन नहीं देती, इसीलिए मैं कह रही हूं कि एक तरफ तो मूल रूप में बिल पेश करना हठधर्मिता का प्रदर्शन कर रहा है और दूसरी तरफ राष्ट्रपति जी के सम्मान की बात कर रहे हैं। मैं जो इस संशोधन पर कहना चाहती हूँ कामरेड सीताराम येचुरी की बात से कहना चाहती हूं। उन्होंने यह कहा कि मैं बिल का समर्थन दो केविएट के साथ कर रहा हूं। एक केविएट यह कि एक अनएम्बिग्युअस डेफिनिशन इस बिल में होती चाहिए और दूसरा यह कि कमेंटी ऐसी बननी चाहिए जो कमेटी बाद में इन तमाम जीजों को समाधान करे, यह इन्होंने कहा है। ...(व्यवधान)...

श्री सीताराम येचुरी: मैडम, एक मिनट मैं स्पष्ट कर दूं कि मैंने एक केविएट की बात कही है एक केविएट है कि एक कमेटी बने जो वह अनएम्बिग्युअस डेफिनशन की ड्राफ्ट करेगी। हमारी यह है केबिएट।

श्रीमती सुषमा स्वराज: जो बात सीताराम येचुरी जो ने कही वह अपनी बात को कंक्लूड करते हुए लॉ मिनिस्टर ने भी कही कि इस तरह की एक कमेटी बनें मैं केवल यह पूछना चाहती हूं कि क्या ऐसी कमेटी का गठन पहले नही किया जा सकता था? क्या अनएम्बिग्यअस डेफिनिशन ...(व्यवधान)...सर, मैं संशोधन का औचित्य बता रही हूं, मैंने यह संशोधन क्यों दिया है। क्या अनएम्बिग्युअस डेफिनिशन आफिस ऑफ प्रोफिट के इस बिल में नहीं लाया जा सकता था? इस बिल में इसीलिए नहीं लाया गया क्योंकि यह सरकार हेकड़ी से राज चलाना चाहती है, क्योंकि यह सरकार दिखाना चाहती है राष्ट्रपति जी को, क्योंकि यह सरकार एरागेंट हो गई है...(व्यवधान)... उपसभापति जी, क्योंकि यह सरकार राष्ट्रपति जी को बताना चाहती है कि एक बार तो आपका गिल मूल रूप में भेजेंगे ही, ताकि संवैधानिक बाध्यता के तहत आप हस्ताक्षर करों, आपकी मजबूरी है, बाद में कमेटी बनाकर के चेंजेज करेगे। तो मैं आपके सामने कहना चाहती हूं कि

लोकतांत्रिक मूल्यों का तकाजा था, विनम्रता का तकाजा था, संवैधानिक मर्यादाओं का तकाजा था...(व्यवधान)...कि यह सरकार संशोधित रूप में बिल लाती।

श्री उपसभापति: आपका अमेंडमेंट कहां है? ...(व्यवधान)...

श्रीमती सुषमा स्वराज: उपसभापति जी, मेरे जो संशोधन हैं मैं बार-बार नहीं बोलूंगी, मैं यह कहना चाहती हूं कि मेरा पहला संशोधन डेफिनिशन को लेकर ही है आरै मैं पढ़कर सुनाना चाहती हूं। मेरा संशोधन है, आफिस ऑफ प्रोफिट की डेफिनिशन मैंने इसमें दी है:

"Office of profit" means any office under the Central Government or the State Government, the holder of which may, by virtue of the office, have the occasion of exercise executie, financial and ancillary powers, notwithstanding the fact that the holder of such an office is either drawing no allowance or an allowance which does not exceed the daily allowance admissible to a Member of Parliament or a Member of the State Legislature."

इसके बाद के जो मेरे संशोधन हैं वह रेट्रोस्पेक्टिविटी के खिलाफ है। वह मैं पढ़ नहीं रही हूं समय के अभाव के कारण। चौथा जो सुझाव सीताराम येचुरी जी का है वह मेरा अमेंडमेंट है इसमें।

"The Parliament (Prevention of Disqualification) Act, 1959 shall cease to have effect after one year from the commencement of this Act. The Central Government shall, within one year from the commencement of this Act, enact a comprehensive legislation based on criteria which are just, fair and reasonable, that get applied across all States and Union Territories in a clear and transparent manner."

यह जो मेरे दो संशोधन हैं-रेस्ट्रोसपेक्टिविटी के खिलाफ तो अलग है, यह जो पहला और चौथा है, मैं यह कहना चाहती हूं कि अगर सीताराम येचुरी जी अपने सुझाव के प्रति सच्चे हैं, अगर वाकई लॉ मिनिस्टर की मंशा यह है, तो मैं एक अमेंडमेंड बाकायदा पेश कर रही हूं, जो सरकार की तरफ से आना चाहिए था, लेकिन नहीं आया, मैं पेश कर रही हूं। अगर आप वाकई मन से सच्चे हैं, तो इन दोनों अमेंडमेंट्स के पक्ष में वोट करिए, ताकि पता चले कि जो भावना आपने रखी है, उस भावना की आप कद्र करते हैं। मैं एक बात भाई अमर सिंह को कहना चाहती हूं...।

श्री उपसभापति: नहीं, यह रहने दीजिए।

श्रीमती सुषमा स्वराज: नहीं, इसी में। उन्होंने कहा कि मैं एक अनैतिक काम कर रहा हूं, वोट

देकर अपने लाभ के पद को बचा रहा हूं। मैं उनसे हाथ जोड़कर निवेदन करना चाहती हूं कि यह बिल तो पारित हो जाएगा, क्योंकि सदन में संख्या का बल है, हमारी तरफ संख्या बल नहीं है, हम आज इस बिल पर डिविजन मांगने जा रहे हैं। आप इस अनैतिकता को थोड़ा कम कर दीजिए, आप बिल के पक्ष में वोट मत डालिए, और तो बाहर चले जाइए। ...(व्यवधान)... कम से कम स्वयं वोट डालकर इस लाभ के पद को मत बचाइये। इनके कारण ही आप बच जायेंगे, कम से कम आप अपना वोट तो मत डालिए। मैं आपसे एक निवेदन करना चाहती हूं, एक प्रोपरायटी का सवाल उठाना चाहती हूं। ...(व्यवधान)... सर, हम इस बिल पर डिविजन मांगेंगे। आपसे मैं एक अपील करना चाहती हूं कि इस बिल के अंदर जिन सांसदों के हितों की रक्षा हो रही है, कृपया आप उनको वोट ने देने की बात कहें। वे बाहर जायें और उसके बाद यह बिल पाारित हो, यह मेरा निवेदन है और इसी के साथ में ये दोनों संशोधन रखती हूं, वापस सीताराम येचुरी जी और लॉ मिनिस्टर को कहते हुए, बाकी दो को न सही, पहला और आखिरी-Definition of Office of Profit और इसमें जो कमेटी का संशोधन दिया है उन दोनों पर हमारे साथ वोट करें। वाकई अगर मन सच्चा है, तो उसको प्रदर्शित करें। यही कहकर मैं अपनी बात को समाप्त करती हूं।

श्री सीताराम येचुरी: सर, मुझे भी इजाजत बोलने की मिलनी चाहिए कि मैं अमेंडमेंट क्यों नहीं मान रहा हूं, इन्होंने तो कहा कि आप मान लीजिएगा। ...(व्यवधान)... आपने इनको भाषण देने दिया, तो आप हमें क्यों रोक रहे हैं? ...(व्यवधान)...

श्री उपसभापति: नहीं, लॉ मिनिस्टर साहब ने बोलना है। ...(व्यवधान)... अमेंडमेंट पर बोलना उनका राइट है, मगर लॉ मिनिस्टर रिप्लाई करेंगे। ...(व्यवधान)...

श्री सीमाराम येचुरी: क्यों नहीं स्वीकार कर रहे? ...(व्यवधान)...

श्री उपसभापति: वह इंडिव्युजल है। ...(व्यवधान)...

SHRI S.S. AHLUWALIA: There is no provision to justify...(*Interruptions*)...

श्री उपसभापति: देखिए, आप provoke करते हैं, फिर कहते हैं, no provision ...(व्यवधान)...

I know, I know...(*Interruptions*)... सुषमा जी ने उनको स्पेसिफिक कहा है, तो वह right to reply पूछ रहे हैं। ...(व्यवधान)...

श्री सीताराम येचुरी: सर, मैं आपसे ...(व्यवधान)...

डा॰ मुरली मनोहर जोशी: सर, उन्होंने अपील की है। ...(व्यवधान)...

श्री उपसभापति: आप सुन लीजिए। ...(व्यवधान)...

श्री सीताराम येचुरी: एक ही मिनट तो बोलना है। ...(व्यवधान)... सर, मैं कोई नई पद्धति या रिवाज नहीं डालना चाहता हूं, क्योंकि हमारा नाम लिया गया है और हमसे आग्रह किया गया है कि आप सपोर्ट करिएगा। मैं समझता हूं कि हमारा अधिकार बनता है कि हम कहें कि क्यों नहीं पर रहे हैं। पहली बात तो यह है कि आपने पहला अमेंडमेंट जो आपने दिया (क) सुषमा जी और उसके साथ जो आपने टिप्पणी रखी कि क्या करण हैं, क्यों लाया गया है, क्यों आज इस बहस को बंद कर दिया गया है, क्यों उसके बावजूद उसको लाया गया, वह सब बहस में आ गया है, मैं उसके अंदर नहीं जा रहा हूं। पहली अमेंडमेंट जो आपने डेफिनेशन के बारे में कही है, वही डेफिनिशन हम गंभीरता से चाहते हैं। एक कमेटी जो बनेगी, वह उसका अध्ययन करेगी। हमारा मानना ...(व्यवधान)...

श्री एस॰एस॰ अहलुवालिया: बिल पास कर रहे हैं। ...(व्यवधान)...

श्री सीताराम येचुरी: आप सुनिए। ...(व्यवधान)... सुनिए, सुनिए, सुनिए। ...(व्यवधान)... आप सुनिए। आप ऐसे तू-तू, मैं-मैं मत करिए। वरना मैं भी आपको यही सवाल पूछता कि पिछली बार यह बिल आया था आपने वाक आउट क्यों किया, आज क्यों आप डिविजन मांग रहे हो? क्या इसके अंदर आपका दोहरापन दिखता नहीं है, ..(समय की घंटी)... आप इस पर मत जाइये। ...(व्यवधान)...

श्री उपसभापति: येचुरी जी, आप समाप्त करिए। ...(व्यवधान)...

SHRI SITARAM YECHURY: As for the fourth amendment, I am willing to go by the assurance of the hon. Minister. If you constitute a committee, it would be a joint committee of both the House, I believe. And then, consult the Presiding Officer...*(Interruptions)*... Consult the Presiding Officer and please announce the Committee. That will be my submission.

डा॰ मुरली मनोहर जोशी: यह बहुत गलत हो रहा है। ...(व्यवधान)... यह बिल पास हो रहा है, इससे ज्यादा खराब बात तो और कोई हो ही नहीं सकती है। ...(व्यवधान)...

This is something most derogatory कि आप बिल पास कर रहे हैं और आप राष्ट्रपति जी का सम्मान कर रहे हैं। ...(व्यवधान)...

श्री सुषमा स्वराज: आप कहते हैं कि गंभीरता नहीं है, बाद में इसमें गंभीरता है। ...(व्यवधान)... आपने कहा कि गंभीरता से विचार करेंगे। ...(व्यवधान)...

श्री सीताराम येचुरी: पिछली वॉक आउट क्यों किया? ...(व्यवधान)...

श्रीमती सुषमा स्वराज: अगर राष्ट्रपति जी के मैसेज पर गंभीरता से सोचा होता। ...(व्यवधान)...

SHRI JANARDHANA POOJARY: In Karnataka, there was a legislation. ...*(Interruptions)*...

MR. DEPUTY CHAIRMAN: Karnataka has nothing to do with it. ...*(Interruptions)*...

श्री सीताराम येचुरी: पिछली बार आपने खुद वॉक आउट किया। ...(व्यवधान)... आपने विरोध नहीं किया। ...(व्यवधान)...

श्रीमती सुषमा स्वराज: तब गंभीरता से नहीं सोचा...(व्यवधान)... राष्ट्रपति जी की बात पर गंभीरता से नहीं सोचा, बाद में सोचोगे।

श्री उपसभापति: अमर सिंह जी क्या बोलना चाहते हैं? ...(व्यवधान)...

श्रीमति सुषमा स्वराज: अगर राष्ट्रपति के संदेश पर गंभीरता से नहीं सोचा तो ...(व्यवधान)...

श्री उपसभापति: अमर सिंह जी कुछ बोलना चाहते हैं। ...(व्यवधान)...

SHRI N. JOTHI: Sir, there is a Bill without definition. ...*(Interruptions)*...

श्रीमती वृंदा कारत (पश्चिमी बंगाल): इनकी आदत पड गयी है ...(व्यवधन)...

डा॰ मुरली मनोहर जोशी: महामहिम राष्ट्रपति जी ने जो कहा, उस पर गंभीरता से विचार करके संसद में आना चाहिए था। ...(व्यवधान)... वह आपने किया ही नहीं। डेफिनेशन आप देंगे ही नहीं...(व्यवधान)... वह आपने किया ही नही।। डेफिनेशन आप देंगे ही नहीं...(व्यवधान)... क्या बात है यह?

MR. DEPUTY CHAIRMAN: Actually, it is an amendment to the Bill. ...*(Interruptions)*...

श्री अमर सिंह: सर, मेरी बहन सुषमा जी ने मुझसे बड़ी मार्मिक अपील की और उन्होंने कहा कि मैं कम से कम कथनी-करनी का भेद न करूं और इसके समर्थन में भी न दूं, विरोध में भी न दूं और बाहर चला जाऊं। मैं यह कहना चाहता हूं कि मेरी पार्टी उत्तर प्रदेश में और दिल्ली में दो स्टैंड नहीं ले सकती। इसलिए मैं यहां पर हूं, लेकिन फिर भी हमारे बड़े भाई डा॰ कर्ण सिंह, जो Ethics कमेटी के चेयरमैन हैं और जो इस विवाद के घेरे में हैं, अगर वे मुझे रास्ता दिखाएं-बचपन से दिखाते रहे हैं-तो मैं उनके पीछे चलने के लिए तैयार हूं। ...(व्यवधान)...

MR. DEPUTY CHIARMAN: The Law Minister wants to reply.

SHRI H.R. BHARDWAJ: Sir, I would like to briefly respond to what hon. Member, Shrimati Sushma Swaraj, has said. I think, she has not made a serious request for amendment because I have already explained that this disqualification relates to articles 102 and 191 of the Constitution. So, this is only a Prevention of Disqualification Act. Any definition which will have to be devised or found out, essentially, will have to be constitutional amendment. So, this amendment is wholly unnecessary amendment moved to the Bill.

MR. DEPUTY CHAIRMAN: Okay; that is the reply.

I shall now put amendment (No. 3) moved by Shrimati Sushma Swaraj to vote.

Amendment (No.3) was negatived.

Clause 1 was added to the Bill.

MR. DEPUTY CHAIRMAN: Now, we shall take up Clause 2 for consideration. There are two amendments—(No. 1) by Shri Dinesh Trivedi and Shri Mukul Roy and (No.4) by Shrimati Sushma Swaraj and Shri S.S. Ahluwalia.

Clause 2-Amendment of Section 3

SHRI DINESH TRIVEDI: Sir, I move:

1. That at pages 2, lines 4 to 6 be *deleted.*

SHRIMATI SUSHMA SWARAJ: Sir, I move:

(4) That at page 2, lines 2-3, the words "and shall be deemed to have been inserted with effect from the 4th day of April, 1959" be *deleted.*

The questions were proposed.

MR. DEPUTY CHAIRMAN: I shall first put the amendment (No.1) moved by Shri Dinesh Trivedi to vote. ..*(Interruptions)*..

SHRI DINESH TRIVEDI: Sir, before you do that, please give me one minute to speak. I have a right to speak.

MR. DEPUTY CHAIRMAN: Okay. एक मिनट में कुछ नहीं हो जाएगा। सुन लीजिए।

श्री दिनेश त्रिवेदी: कथनी और करनी में यही फर्क है। एक बार कहते हैं कि प्रेजीडेंट जी ने मैसेज भेजा है, सीरियसली डिसकस करना है और हम अमेंडमेंट में बोलना चाहते हैं तो बोलने नहीं देंगे। ...(व्यवधान)...

श्री उपसभापति: प्रील्यूड में मत जाइए, बोलिए न। मैं बोलने दे रहा हूं। ...(व्यवधान)...
श्री दिनेश त्रिवेदी: आप एथिक्स की बात कर रहे हैं.....(व्यवधान)... This is what unethical.

श्री उपसभापति: आप चेयर को एड्रेस कीजिए।

श्री दिनेश त्रिवेदी: चेयर को ही कर रहा हूं। आप ही के थ्रू जा रहा हूं। ...(व्यवधान)...

श्री उपसभापति: उधर मत देखिए। ...(व्यवधान)...

श्री दिनेश त्रिवेदी: गांधी जी ने यह सही कहा था कि बुरा देखना भी नहीं चाहिए इसलिए हम देखेंगे भी नहीं। Sir, I am mentioning the table where you have given the names of the Offices of profit.

श्री उपसभापति: अमेंडमेंट पढ़िए। आप क्या अमेंडमेंट चाहते हैं, उसके ऊपर बोलिए। ...(व्यवधान)... टेबल तो हो गया। ...(व्यवधान)...

श्री दिनेश त्रिवेदी: उसका लॉजिक तो दे दें। ...(व्यवधान)... पढ़ना क्या, लॉजिक तो दे दें।

श्री उपसभापति: देखिए, आपने एक अमेंडमेंट दिया है। वह आमेंडमेंअ ...(व्यवधान)...

श्री दिनेश त्रिवेदी: हमने अमेंडमेंट यही दिया है सर।

I have given the amendment that at pages 2, lines 4 to 6 be deleted. This should be deleted and the reason why it should be deleted is, on what basis you have picked up 55 and odd names. Is it only because, which is given in objective clause? I compliment the Law Minister that he was very honest and transparent when he says that "if I don't bring these offices, then 40 or 45 MPs--last time I mentioned about Ali Baba—will be disqualified including Shri Vijay Kumar Malhotra". If they get disqualified, which they are certain to get disqualified, then there is going to be election and the money will be spent on all those elections. Sir, then why do we have an election at all in this democracy? Why do we have Constitution in this democracy? ..*(Interruptions)*.

MR. DEPUTY CHAIRMAN: Please, sit down ...*(Interruptions)*.

SHRI DINESH TRIVEDI: This is against article 14 of the Constitution...*(Interruptions)*.

MR. DEPUTY CHAIRMAN: You wanted deletion and you have already explained it. You have already spoken ..*(Interruptions)*.

SHRI DINESH TRIVEDI: Sir, I am giving reasons.

MR. DEPUTY CHAIRMAN: You have already made your point in your intervention. ...*(Interruptions)*.

SHRI DINESH TRIVEDI: I must cite the article. Shri Jethmalaniji is here and I picked up from his last speech that it violates article 14 of the Constitution. This is highly discriminatory in nature. Why? I still want to know the reason that why only these offices. It violates article 14 of the Constitution.

MR. DEPUTY CHAIRMAN: You have made your point.

SHRI DINESH TRIVEDI: Sir, if you are going to pass this ...*(Interruptions)*.

MR. DEPUTY CHAIRMAN: No, you have made your point.

SHRI DINESH TRIVEDI: This is going against the spirit and letter of the Constitution.

MR. DEPUTY CHAIRMAN: I shall now put Amendment No. 1 moved by Shri Dinesh Trivedi to vote.

The motion was negatived.

SHRI DINESH TRIVEDI: Sir, I want a division. It violates article 14. I will need it in the Supreme Court; otherwise, they will say that it was unanimously passed ...*(Interruptions)*.

MR. DEPUTY CHAIRMAN: Okay, lobbies to be cleared.

The House Divided.

MR. DEPUTY CHAIRMAN: Ayes - 56

Noes- 108

AYES — 56

Ahluwalia, Shri S.S.
Anbalagan, Shri S.
Azmi, Shri Abu Asim
Balmiki Shri Krishan Lal
Barot, Shri Jayantilal
Bhardwaj, Shri Suresh
Bohidar, Ms. Pramila
Bora, Shri Indramoni
Chaturvedi, Shri Lalit Kishore
Dhinakaran, Shri T.T.V.
Govindarajar, Shri N.R.
Goyal, Shri Vedprakash P.
Heptulla, Dr. (Shrimati) Najma A.
Indira, Shrimati S.G.
Jaitley, Shri Arun
Joshi, Dr. Murli Manohar
Joshi, Shri Sharad Anantrao
Jothi, Shri N.
Kamaraj, Shri R.
Kanchal, Shri Banwari Lal
Katiyar, Shri Vinay
Kesari, Shri Narayan Singh
Khan, Shri S.P.M. Syed
Krishnamurthy K., Shri Jana
Lath, Shri Surendra
Majhi, Shri Bhagirathi
Manaklao, Dr. Narayan Singh
Maroo, Shri Ajay
Mitra, Dr. Chandan
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri P.G.
Nishad, Shri Jai Narain Prasad
Pany, Shri Rudra Narayan
Patel, Shri Kanjibhai
Patel, Shri Keshubhai S.
Perumal, Shri C.
Pilania, Dr. Gyan Prakash
Prasad, Shri Ravi Shankar
Roy, Shri Mukul
Rupani, Shri Vijaykumar
Sahu, Shri Ram Narayan
Selvan, Shri Thanga Tamil
Shanappa, Shri K.B.
Sharma, Shri Laxminarayan
Singh, Shri Amar
Singh, Shri Bhagwati
Singh, Shri Jaswant
Singh, Shrimati Maya
Singh, Shri Tarlochan
Sinha, Shri Shatrughan
Sinha, Shri Yashwant
Swaraj, Shrimati Sushma
Thirunavukkarasar, Shri Su.
Trivedi, Shri Dinesh

Verma, Shri Vikram
Vyas, Shri Shreegopal

NOES — 108

Aggarwal, Shri Jai Prakash
Ahmed, Shri Sk. Khabir Uddin
Akhilesh Das, Dr.
Alvi, Shri Raashid
Anand Sharma, Shri
Antony, Shri A.K.
Ashwani Kumar, Shri
Aslam, Chowdhary Mohammad
Azmi, Maulana Obaidullah Khan
Bagrodia, Shri Santosh
Bajaj, Shri Rahul
Bajwa, Shri T.S.
Bhandary, Prof. Ram Deo
Bhardwaj, Shri Hans Raj
Bhartia, Shrimati Shobhana
Bhatia, Shri Virendra
Bhattacharjee, Shri Karnendu
Cariappa, Shrimati Prema
Chatterjee, Shri Prasanta
Chaturvedi, Shri Satyavrat
Chavan, Shri Prithviraj
Condpan, Shri Silvius
Darda, Shri Vijay J.
Deora, Shri Murli
Deshpande, Kumari Nirmala
Dhawan, Shri R.K.
Dwivedi, Shri Janardan
Fernandes, Shri Oscar
Gnanadesikan, Shri B.S.
Gupta, Shri Prem Chand
Hariprasad, Shri B.K.
Jethmalani, Shri Ram
Karan Singh, Dr.
Karat, Shrimati Brinda
Kashyap, Shri Ramadhar
Keishing, Shri Rishang
Kharshiing, Shri Robert
Kidwai, Shrimati Mohsina
Kshatriya, Prof. Alka Balram
Kumaran, Shri K.P.K.
Kurien, Prof. P.J.
Lepcha, Shri O.T.
Madhu, Shri Penumalli
Mahendra Mohan, Shri
Mandal, Shri Mangani Lal
Meghe, Shri Datta
Mishra, Shri Janeshwar
Moinul Hassan, Shri
Naik, Shri Shantaram Laxman
Nandi Yellaiah, Shri
Narayanasamy, Shri V.

Natchiappan, Dr. E.M. Sudarsana
Nayak, Dr. Radhakant
Pachouri, Shri Suresh
Pasha, Shri Syed Azeez
Patel, Shri Ahmed
Patel, Shri Praful
Pathak, Shri Saman
Patil, Shri Shivraj Vishwanath
Pillai, Shri K. Chandran
Pillai, Shri Thennala G. Balakrishna
Poojary, Shri Janardhana
Rahman, Shri Motiur
Rajan, Shri P.R.
Rajasekharan, Shri M.V.
Ramadoss, Dr. Anbumani
Ramesh, Shri Jairam
Rao, Dr. Dasari Narayana
Rao, Shri K. Keshava
Rao, Shri V. Hanumantha
Rashtrapal, Shri Praveen
Ravi, Shri Vayalar
Rawat, Shri Harish
Rebello, Ms. Mabel
Rebia, Shri Nabam
Reddy, Shri G. Sanjeeva
Reddy, Dr. T. Subbarami
Roy, Shri Abani
Roy, Shri Tarini Kanta
Sabharwal, Shri Dharam Pal
Sanghi, Shri Gireesh Kumar
Sarkar, Shri Matilal
Seelam, Shri Jesudasu
Sen, Shri Tapan Kumar
Sengupta, Shri Arjun Kumar
Sharma, Shri Satish Kumar
Sharmah, Dwijendra Nath
Shri Sushil Kumar Sambhajirao
Shukla, Shri Rajeev
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh, Shri Arjun
Singh, Dr. Manmohan
Singh, Shri Uday Pratap
Singhvi, Dr. Abhishek Manu
Soni, Shrimati Ambika
Soz. Prof. Saif-ud-Din
Sukhbuns Kaur, Shrimati
Taimur, Shrimati Syeda Anwara
Thakur, Dr. Prabha
Thakur, Shri Viplove
Tiriya, Ms. Sushila
Vasan, Shri G.K.
Vijayaraghavan, Shri A.
Vora, Shri Motilal
Yadav, Shri Nand Kishore
Yadav, Shri Subhash Prasad

Yechury, Shri Sitaram

Amendment (No. 1) was negatived.

MR. DEPUTY CHAIRMAN: I shall now put Amendment No. 4 moved by Shrimati Sushma Swaraj to vote.

Amendment (No. 4) was negatived.

Clause 2 was added to the Bill.

CLAUSE 3: Insertion of New Table.

MR. DEPUTY CHAIRMAN: In Clause 3, there are two Amendments. Amendment No. 2 by Shri Dinesh Trivedi and Shri Mukul Roy, and, Amendment No. 5 by Shrimati Sushma Swaraj and Shri S.S. Ahluwalia.

SHRI DINESH TRIVEDI: Sir, I move:

2. That at pages 2-4, Clause 3 be *deleted*

SHRIMATI SUSHMA SWARAJ: Sir, I move:

'That at page 2, line 15, the words "and shall be deemed to have been inserted with effect from the 4th day of April, 1959" be *deleted.*'

The questions were proposed

MR. DEPUTY CHAIRMAN: I shall now put amendment (No.2) moved by Shri Dinesh Trivedi to vote.

Amendment (No. 2) was negatived

MR. DEPUTY CHAIRMAN: I shall now put amendment (No. 5) moved by Shrimati Sushma Swaraj to vote.

Amendment (No. 5) was negatived.

Clause 3 was added to the Bill.

CLAUSE 4: Special provisions as to validations and other matters.

MR. DEPUTY CHAIRMAN: In Clause 4, there is one Amendment (No. 6) by Shrimati Sushma Swaraj.

SHRIMATI SUSHMA SWARAJ: Sir, I move.

'That at page 4, *for* clause 4, the following clause be *substituted.* namely:—

"4(1) Nothwithstanding anything contained in any other law, if at the time of commencement of this Act, any petition or reference is pending before any court or other authority in respect of any of the office mentioned in section 3, that office shall not be deemed to have been exempted from disqualification under this Act till such time the petition or the reference is disposed of in its favour.

Provided that every petition or reference pending before any court or other authority for any office under section 3 shall be disposed of within sixty days of its filling."

2. The Parliament (Prevention of Disqualification) Act, 1959 shall cease to have effect after one year from the commencement of this Act.

3. The Central Government shall within one year from the commencement of this Act, enact a comprehensive legislation based on criteria which are just, fair and reasonable that can be applied across all States and Union Territories in a clear and transparent manner."

The question was proposed.

MR. DEPUTY CHAIRMAN: I shall now put amendment No. 6 moved by Shrimati Sushma Swaraj to vote.

Amendment (No. 6) was negatived.

Clause 4 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI H.R. BHARDWAJ: Sir, I move:

'That the Bill, as passed by the Houses of Parliament, be passed again.'

The question was proposed

MR. DEPUTY CHAIRMAN: The question is that the Bill, as passed by the Houses of Parliament be passed again.

THE HOUSE DIVIDED

MR. DEPUTY CHAIRMAN: Ayes — 112
Noes — 53

AYES—112

Aggarwal, Shri Jai Parkash
Ahmed, Shri S.K. Khabir Uddin
Akhilesh Das, Dr.
Alvi, Shri Rasshid
Anand Sharma. Shri
Antony, Shri A.K.
Ashwani Kumar, Shri
Aslam, Chowdhary Mohammad
Azmi, Shri Abu Asim
Azmi, Maulana Obaidullah Khan
Barodia, Shri Santosh
Bajaj, Shri Rahul
Bajwa, Shri T.S.
Bhandary, Prof. Ram Deo
Bhardwaj, Shri Hans Raj
Bhartia, Shrimati Shobhana
Bhartia, Shri Virendra
Bhattacharjee, Shri Karnendu
Cariappa, Shrimati Prema
Chatterjee, Shri Prasanta (West Bengal)
Chaturvedi, Shri Satyavrat
Chavan, Shri Prithviraj
Condpan, Shri Silvius
Darda, Shri Vijay J.
Deora, Shri Murli
Deshpande, Kumari Nirmala
Dhawan, Shri R.K.
Dwivedi, Shri Janardan
Fernandes, Shri Oscar
Gnanadesikan, Shri B.S
Gupta, Shri Prem Chand
Hariprasad, Shri B.K.
Jethmalani, Shri Ram
Kanchhal, Shri Banwari Lal
Karan Singh, Dr.
Karat, Shrimati Brinda
Kashyap, Shri Ramandhar
Keishing, Shri Rishang
Kharshiing, Shri Robert
Kidwai, Shrimati Mohsina
Kshatriya, Prof. Alka Balram
Kumaran, Shri K.P.K.
Kurien, Prof. P.J.
Lepcha, Shri O.T.
Madhu, Shri Penumalli
Mahendra Mohan, Shri
Mandal, Shri Mangani Lal
Meghe, Shri Datta

Mishra, Shri Janeshwar
Moinul Hassan, Shri
Naik, Shri Shantaram Laxman
Nandi Yellaiah, Shri
Narayanasamy, Shri V.
Natchiappan, Dr. E.M. Sudarsana
Nayak, Dr. Radhakant
Pachouri, Shri Suresh
Pasha, Shri Syed Azeez
Patel, Shri Ahmed
Patel, Shri Praful
Pathak, Shri Saman
Patil, Shri Shivraj Vishwanath
Pillai, Shri K. Chandran
Poojary, Shri Janardhana
Prasad, Shri Rajniti
Rahman, Shri Motiur
Rajan, Shri P.R.
Rajasekharan, Shri M.V.
Ramadoss Dr. Anbumani
Ramesh, Shri Jairam
Rao. Dr. Dasari Narayana
Rao, Shri K. Keshava
Rao, Shri V. Hanumantha
Ravi, Shri Vayalar
Rawat, Shri Harish
Rebello, Ms. Mabel
Rebia, Shri Nabam
Reddy, Shri G. Sanjeeva
Reddy, Dr. Subbarami
Roy, Shri Abani
Roy, Shri Tarini Kanta
Sabharwal, Shri Dharam Pal
Sahu, Shri Ram Narayan
Sanghi, Shri Gireesh Kumar
Sarkar, Shri Matilal
Seelam, Shri Jesudasu
Sen, Shri Tapan Kumar
Sengupta, Shri Arjun Kumar
Sharma, Shri Satish Kumar
Sharmah, Shri Dwijendra Nath
Shinde, Shri Sushilkumar Sambhajirao
Shukla, Shri Rajeev
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh Shri Amar
Singh, Shri Arjun
Singh, Shri Bhagwati
Singh, Dr, Manmohan

Singh, Shri Uday Pratap
Singhvi, Dr. Abhishek Manu
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-din
Sukhbuus Kaur, Shrimati
Sri, Shri Lalit
Taimur, Shrimati Syeda Anwara
Thakur, Dr. Prabha
Tiriya, Ms. Shushila
Vasan, Shri G.K.
Vijayaraghavan, Shri A.
Vora, Shri Motilal
Yadav, Shri Nand Kishore
Yadav, Shri Subhash Prasad
Yechury, Shri Sitaram

NOES-53

Agarwal, Shri Ramdas
Ahluwalia, Shri S.S.
Anbalagan, Shri S.
Balmiki, Shri Krishan Lal
Barot, Shri Jayantilal
Bhardwaj, Shri Suresh
Bohidar, Ms. Pramila
Bora, Shri Indramoni
Chaturvedi, Shri Lalit Kishore
Dhinakaran, Shri T.T.V.
Govindarajar, Shri N.R.
Goyal, Shri Vedprakash P.
Heptulla. Dr. (Shrimati) Najma. A.
Indira, Shrimati S.G.
Jaitley, Shri Arun
Joshi, Dr. Murli Manahor
Joshi, Shri Sharad Anantrao
Jothi, Shri N.
Kamaraj, Shri R.
Katiyar, Shri Vinay
Kesari, Shri. Narayan Singh
Khan, Shri S.P.M. Syed
Krishnamurthy K., Shri Jana
Lath, Shri Surendra
Majhi, Shri Bhagirathi
Manaklao, Dr. Naryan Singh
Maroo, Shri Ajay
Mitra, Dr. Chandan
Naqvi, Shri Mukhtar Abbas
Narayanan, Shri P.G.
Nishad, Shri Jai Narain Prasad
Pany, Shri Rudra Narayan
Patel, Shri Kanjibhai
Patel, Shri Keshubhai S.
Perumal, Shri C.
Pilania, Dr. Gyan Prakash

Prasad, Shri Ravi Shankar
Roy, Shri Mukul
Rupani, Shri Vijkaykumar
Selvan, Shri Thanga Tamil
Shanappa, Shri K.B.
Sharma, Shri Laxminarayan
Singh, Shri Jaswant
Singh, Shrimati Maya
Singh, Shri Tarlochan
Sinha, Shri Shatrughan
Sinha, Shri Yashwant
Swaraj, Shrimati Sushma
Thirunavukkarsar, Shri Su.
Trivedi, Shri Dinesh
Uikey, Miss Anusuiya
Verma, Shri Vikram
Vyas, Shri Shreegopal

The motion was adopted

[MR. CHAIRMAN in the Chair]

STATEMENTY BY PRIME MINISTER

The situation in Lebanon and Evacuation of Indian Nationals

THE PRIME MINSTER (DR. MANMOHAN SINGH): Hon. Members are aware of the current situation in Lebanon. Taking into account the concern that Members may have on this score, I rise to apprise the House of the current situation and our responses to the evolving situation, especially the efforts made by us to aid and assist Indian nationals who have become victims of the escalating crisis in Lebanon

Sir, West Asia is our extended neighbourhood and tensions in that region affect our security and our vital interests. We are seriously concerned about the escalation of the conflict between Israel and the Hezbollah extending across the Lebanon-Israel border. These developments have inflamed an already tense and delicate situation in the region.

On July 12, India had condemned the the abduction of two Israeli soldiers by the Hezbollah cadres and called for their immediate release. Simultaneously, we had condemned in the strongest possible terms the